



VOL. CXVI

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CONTENTS

NOTES OF THE WEEK

ARTICLES:

Refusal to Plead	742
New Towns	743
Milk and Dairies (concluded)	750
Taking Cover	752
WEEKLY NOTES OF CASES	745

PAGE
739

MISCELLANEOUS INFORMATION

REVIEWS	747
THE WEEK IN PARLIAMENT	748
PARLIAMENTARY INTELLIGENCE	748
PERSONALIA	749
LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS	749
PRACTICAL POINTS	753

REPORTS

Chancery Division
Ealing Borough Council v. Minister of Housing and Local Government and Others—Town and Country Planning—Purchase notice—Confirmation—Service of notice on borough council..
Hampshire Summer Assizes
Reg. v. Miller—Criminal Law—Evidence—Character of prisoner—Questions on behalf of one prisoner involving character

529

of another—Application for separate trials..... 533
Court of Criminal Appeal
Reg. v. Straffen—Criminal Law—Evidence of other criminal acts
 —Confession of previous offences in similar circumstances.
 Criminal law—Evidence—Answers to questions by police—
 Caution—"Person in custody"—Broadmoor patient—"Judges' Rules," r. 3..... 536

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NOTES of the WEEK

Police Statements After Conviction

Delivering the judgment of the Court of Criminal Appeal in *R. v. Crabtree* on October 27 the Lord Chief Justice made some important observations about the kind of statements proper for the police to make after the conviction of a prisoner, and the right course for the police to take when asked by the prisoner's solicitor before trial for particulars of the prisoner's antecedents.

Lord Goddard said it had often been pointed out that it is desirable for a police officer to say a man is an associate of criminals or of convicted thieves, so long as he is not speaking wildly or generally, but could if necessary give their names from his own knowledge and could state their convictions.

Referring to a Home Office Circular on the subject, the Lord Chief Justice approved the suggestion that details of previous convictions should not be given to defending solicitors before trial unless the chief officer of police is satisfied that the solicitor has his client's authority for requesting this information, but said the court felt bound to say that it did not approve of a paragraph in the circular: "As regards details of antecedent history other than convictions the Secretary of State suggests that there is no reason why this should be given." Lord Goddard went on: "we think that if the officer who is going to give evidence is going to say if asked, although it is not to be contained in the first proof before the court, that the man has a bad character through being known as an associate of thieves and so forth, that ought to be communicated to counsel for the defence because counsel for the defence may then want to take his client's instructions as to whether the evidence the police officer is going to give is disputed or not by the prisoner. . . . However, I think we shall suggest to the Secretary of State that the Circular should be altered in some particulars with regard to evidence before sentence."

The Cockfighting Act, 1952

This Act came into force on October 30, 1952. Its long title adequately explains its purpose: "An Act to make it unlawful to have possession of any instrument or appliance designed or adapted for use in connexion with the fighting of a domestic fowl."

Section 1 provides for a maximum penalty, on summary conviction, of three months and/or a fine of £25. The court must be satisfied that the accused had the article in question in his possession for the purpose of using it or permitting it to be used in connexion with cockfighting.

On conviction the court may order the article in question to be destroyed or to be dealt with in such other manner as the order may specify, but the order is not to take effect until the expiration

of the fourteen days during which notice of appeal may be served and, if notice is served, until the appeal is dismissed or withdrawn.

The Protection of Animals Act, 1911, s. (1) (c) deals with those who cause, procure or assert at the fighting of any animal (defined in s. 15 to include a fowl) and with other persons concerned in such activities. The Town Police Clauses Act, 1847, s. 36, where that Act is in force, also imposes penalties for similar offences. The new Act goes a step further in the attempt to prevent this cruel pastime.

Due Care and Attention

In our note at p. 548, *ante*, we suggested that driving a car is a job that demands undivided attention, and that it is not desirable to attempt to do two things at once. The things that some motorists do while driving are astonishing. A provincial paper reports the case of a man who was alleged to have been in the act of shaving with an electric razor while driving, and to have said that he could not see that it was careless, as he did it habitually. Now that he has been fined, perhaps he will change his habit.

What the police said was that with each movement in the act of shaving he swerved, and that he appeared to be looking into the mirror as he shaved. Doubtless the defendant felt sure that he was on a safe stretch of road, but what we feel is that it is never safe to engage in anything which not only takes attention off the road but also involves movements that affect the steering. The motorist must always be ready to deal with something unexpected, even on a quiet road, and regarding his own face in a mirror instead of watching the road and the traffic that may be about is hardly giving due care and attention to the business of driving. We cannot understand why anyone should acquire a habit of shaving in a car. We understand it is a very quick operation in the case of the type of razor in question, and a man must indeed be short of time if he cannot manage to get it over before starting out for the day.

Toe-prints

Footprints, in the sense of the impression of boots or shoes, have sometimes been used as some evidence of the identity of an accused person, but no one would pretend that by themselves they could ordinarily be convincing.

But what about actual toe-prints? If finger print impressions are so individual that no two persons have identical finger prints, it would not be surprising if some day it were proved that toe-prints have the same individual quality.

In the High Court at Glasgow on November 4, part of the evidence against a man who was convicted of breaking into premises with intent to steal consisted of toe-print evidence.

Bare foot prints were found on a safe and on the floor. A photograph of one of the footprints were sent for examination together with an impression of the prisoner's foot, and a police witness gave evidence that in his opinion the sets of prints were identical. He contended that identification by toe-prints was just as conclusive as identification by finger prints.

Since criminals do not usually go about their business bare-footed it is unlikely that toe-print evidence will ever become as common in this country as finger print evidence. Moreover, if this seemed at all likely, criminals would take good care to cover their feet just as so many of them now cover their hands.

Walsall Justices' Bulletin

By courtesy of the clerk to the justices we have received a copy of this bulletin, which is on the lines with which we are becoming familiar and which we think are exactly the right lines.

Attention is called to a number of new statutes affecting the work of magistrates' courts, as well as to a number of recent decisions. Topics touched upon include interference from the bench with the conduct of a case by an advocate, the exclusion of waiting witnesses from the court, and the opinion of the council of the Law Society as to the general undesirability of a solicitor offering to stand bail for a person for whom he is acting.

The question of the retirement of the clerk with the bench has been discussed here, as elsewhere, and we note that reference is made to the article by Mr. J. N. Martin which appeared in our issue of July 19.

The justices will also find it interesting to read the results of the cases they have committed for trial and of appeals to quarter sessions from their decisions.

There is an invitation to justices to contribute matter or to make suggestions for notes or articles, to be included in the journal. Justices can in this way make it their own journal, and not simply something supplied ready made by the clerk.

Nottinghamshire Weights and Measures Department

In his report for the year ended March 31, Mr. T. L. E. Gregory, chief inspector, states: "further substantial rises in commodity prices during the year have again emphasized the increasing need for precision in the measurement of quantities . . . Your inspectors have been vigilant in preventing the petty deceptions which acute competition sometimes tempts the less scrupulous traders to practice."

A new weighbridge testing unit provided by the county council has been in use for a year and has given excellent service. The economies of the unit are such that a large weighbridge can now be tested by two men in about twenty minutes, a task which previously occupied up to eight labourers and an Inspector for several hours. The county council have made the equipment available to other weights and measures authorities and, when official use permits, generally to industrialists in the county for approved purposes at reasonable charges. The demands for this unique service are steadily increasing.

Purchasers of pre-packed foods should evidently be on their guard and make sure of the quantity they are receiving. The report says:

"The majority of pre-packed foods must now be marked with the minimum weight, volume or number of the contents. Once again one calls attention to the gradual reduction in the contents and the ingenious inflation of the apparent size of some packs, and purchasers would be wise to pay much more attention than they generally do to the statements of weight, measure or

number marked on such goods for their protection. There is also a tendency for some packers to pack goods in reduced weights which are not readily understood, e.g., many packs of potato crisps, for which there is an enormous demand, and which used to contain one oz. are now marked fourteen dr. and sometimes twelve dr. and similarly some vinegars and sauces previously sold in quantities of one pint and half pint are now appearing in quantities of seventeen fl. oz. or 6½ fl. oz. or other quantities not so readily understood. Many other pre-packed foods are similarly affected."

In the sale of coal and other solid fuel there were cases involving deliberate fraud. One man entrusted with the delivery of twenty-four cwt. of firewood to a customer delivered just over twelve cwt. having sold the rest to a friend. In another case a customer detected the delivery of nine bags of coal instead of ten, and Mr. Gregory adds that there is little doubt that frauds of this kind are prevalent, and that many go undetected because customers do not even take the precaution of counting the number of bags delivered.

Other frauds concern various kinds of food and drink or medicine. Here are two examples; samples of Indian Brandee and Peppermint, submitted by a private purchaser who had obtained them from an itinerant vendor as a remedy for colds at 3s. per bottle, proved to be diluted Worcester Sauce and water respectively. Concern is felt about the quality of milk which, as given by the cow, proves to be sub-standard.

Professional Medical Secrecy

A recent issue of the *Bulletin* of the International Social Security Association contains an article on professional secrecy in the medical profession under social security legislation in France, and is of interest to those who are concerned with the subject in this country. It is accepted in France that professional secrecy must be observed by every doctor unless the law has permitted or required otherwise. Under the social security scheme, a doctor giving treatment must fill up a form so that the patient may claim payment from the social security organization and to this extent there is a permitted deviation from the general rule. The medical scheme is different to that prevailing under our National Health Service as the doctor is paid according to the treatment given. When a consultant is concerned he also makes a written report. These various documents are retained by the medical department of the organization and are not permitted to go into the hands of laymen. The confidential information which is disclosed is therefore only passed from one doctor to another doctor and the documents are retained in the files of the medical department. This procedure relates to medical questions arising in the course of insurance against illness. If, however, there is a difference of opinion on the patient's condition in connexion with insurance against incapacity, the matter is taken to a technical commission on which there are three non-medical persons but they, like the medical members, must observe secrecy on all points brought up in their discussions. The over-riding consideration is that medical secrecy in social security legislation must be such as concerns the interest of the patient and so it is in his interest that certain facts shall be communicated in such a way as to be incapable of interpretation by non-medical persons but made clear from one doctor to another.

Recuperative Centre for Mothers

The current issue of *Social Work* describes a new centre for mothers which has been opened at Spofforth Hall, near Harrogate, by the Society of Friends, on behalf of the Elizabeth Fry Memorial Trust. The work of the Salvation Army Home at Plymouth is well known to magistrates, and although this new

home is rather different in character, its establishment will no doubt be of interest to magistrates and others who are concerned in helping mothers who, through mental or physical strain or other unsatisfactory conditions, are unable to give adequate care to their homes. It will be the aim to prevent the complete breakdown of family life with the consequent separation of children from their parents. The Home will enable mothers to enjoy the atmosphere of a simple but attractive and well ordered home, to have good food, fresh air and recreation so that they may be physically and mentally equipped to resume the care of their homes and families. At the same time help and advice will be given as opportunity offers on home management, the care of children, the preparation of food and other similar matters using material and equipment which will be accessible in the homes from which the mothers come. Children up to the age of six years will be received with their mothers. The minimum stay will be for four to six weeks, but it is hoped that the sponsoring authorities will agree to families remaining for periods up to three months where there is special need. The cost of accommodation is £5 5s. a week for each mother and half that amount for children.

Generalize Will Not Equalize

Terms of reference to a committee investigating the operation of the Local Government Act, 1948, Part I (Exchequer grants and other financial provisions relating to England and Wales) have some analogy with instructions to bulldoze a mountain and produce a mouse. The committee, comprised of representatives of the four associations of local authorities and London under the chairmanship of the Accountant-General of the Ministry of Housing and Local Government, may, for instance, consider whether any interim adjustment of the Exchequer Equalization Grants to counties and county boroughs under the Act of 1948, s. 2, is practicable and desirable, but are extensively warned of negative features belying the appellation "equalization" and rising to crescendo in a statement that "a complete equalization of the burdens upon the ratepayers in different parts of the country . . . could probably only be secured if all services were nationalized." Another illustration of invitation to labour heavily and dogmatize lightly is in relation to other major Exchequer grants to local authorities for such as education, housing, police and highways, involving, in all, some £300 million a year; not unexpectedly, the committee are subject always to the restriction that the burden of grants on the Exchequer must not be increased, but surprise will be thunderous if the committee contrive sustainable recommendations for the amendment of other, repercussive, grant systems while being debarred from "detailed examination of such proposals." Reservation of "detailed examination" to the department concerned in consultation with local authorities seems another way to "impose a bar of confidence on certain topics," which sometimes anaemizes public government by deprivation of vitalizing discussion. While the memorandum outlining the scope and governing the procedure of the investigatory committee anticipates "that some individual local authorities will ventilate their own recommendations" at the initial stage of the committee's deliberations these seem unlikely to receive visibly individual consideration but more likely to be objects of unfruitful search for distinguishment in the ultimate report to be laid before Parliament by the Minister of Housing and Local Government.

Individual local authorities, groups of one type or mixed, or classes of the same type will have a hard task to make out a case for some change in any of the grant systems which would yield them benefit, and a useless task in seeking for the umpteenth time abolition or modification of the derating of agricultural, industrial and other hereditaments which is specifically excluded

from the purview of the committee. The hardness of the task would spring from a number of grounds not easy to assess and set out in order of importance. One is that the overall amount of Exchequer subventions cannot be increased, which means that the left hand will be compelled to take from Peter in order that the right may give to Paul (it was noticed at p. 629, *ante*, that local rates and Government grants have both risen by thirty-four per cent. since 1946). Another, that the content and import of data relating to the 1,470 rating authorities, embodying much derived from county councils very differently circumstanced among themselves, are extremely diverse within a range of local rates from about 12s. 0d. to 33s. in the £, and an amount of rates per head of population outside London (treated specially) running from £4 to £11 in county boroughs and from under £4 to over £9 in averages for administrative counties as notional entities. A further ground of hardness is that disuniformity of valuation will continue to dishevel equity in the distribution of Exchequer Equalization Grants pivoting on averages of rateable value per head of population, also applicable in a different form to the distribution and financing of payments by county councils to councils of county districts under the Act of 1948, s. 9, and so on. Councils of counties and county boroughs whose rateable value is considerably (up to fifty per cent., and more) above the national average per head will shudder with relief at the slight glance at their alleged opulence where the paper prepared by the Ministry of Housing and Local Government states that Exchequer Equalization Grants "do nothing to withdraw from councils with resources in excess of the average those resources above the average."

Possibly, it may be thought that the breakdown of the intention of the Act of 1948 to establish revised valuations not later than April 1, 1953, so seriously vitiates the objective of an investigation originally coupled with revaluation that the current investigation will not have value commensurate with the effort involved. There is something in this. On the other hand, the period of five years under review is ending with circumstances of change and stability markedly different from those envisaged at its outset, which render investigation desirable for the purpose, at most, of effecting necessary adaptations and, at least, of being sure that an important part of the financial structure of local government neither has nor will become rickety.

Salvage of Waste Paper

We referred at p. 629, *ante*, to the need for the salvage of scrap material generally and we should have thought that this would have applied to waste paper. Doubts are thrown on this, however, in a letter from the Buxton Corporation to the Association of Municipal Corporations in which it is pointed out that from time to time Government-sponsored appeals have been made urging local authorities to increase the collection of waste paper but that the increased importation of large supplies of wood pulp and strawboard have resulted in there being no market for waste paper. Apart from the saving of foreign currency the collection of waste paper has been a source of profit to local authorities. If the special methods of collection cease, householders will lose the habit of saving their waste paper for separate collection and it will be difficult to re-acquire that habit if the Government once again appeals for waste paper. Buxton suggested that, if the Government is to expect and to receive the co-operation of local authorities in matters such as this, then the local authorities in turn are entitled to expect a stable Government policy. It is all to the good that Buxton should have raised this matter as one of principle. We were glad, therefore, that the Association has asked the Ministry of Housing and Local Government to receive a deputation to discuss the subject.

REFUSAL TO PLEAD

[CONTRIBUTED]

It is not often that a jury are empanelled to determine whether a prisoner, who remains silent when called upon to plead, does so by reason of being "mute of malice or by the visitation of God," but this position arose recently at Surrey Quarter Sessions at Kingston. There one A. J. Stanley had remained silent when he was asked to plead to a charge of stealing, and after the prison doctor had given evidence that he had said less and less, and in the past ten days had spoken only once, when he had said "yes," the jury returned a verdict that Stanley was mute of malice, and a plea of not guilty was entered for him to the charge. "Such a state of affairs rarely exists in this noisy world," said Judge Tudor Rees, the chairman, in his direction to the jury. "There is usually an absence of silence." (*Evening Standard*, October 21, 1952, p. 8). In view of this report it may not be out of place to examine the procedure appropriate in such a case and to see by virtue of what authority a plea of "not guilty" is entered after a finding of "mute of malice."

The first question which arises is, what amounts to "standing mute," and the answer is to be found in *Blackstone's Commentaries* (Vol. 4 at p. 324). There it is stated that, "Regularly a prisoner is said to stand mute, when, being arraigned for treason or felony, he either (1) makes no answer at all; or (2) answers foreign to the purpose, or with such matter as is not allowable and will not answer otherwise; or, (3) upon having pleaded not guilty refused to put himself upon the country. If he says nothing, the court ought *ex officio* to empanel a jury to inquire whether he stands obstinately mute, or whether he is dumb *ex visitatione Dei*."

Where a prisoner thus stands mute, it is necessary for a jury to be empanelled *instantly* to try this question it not being open to the court itself to hear evidence on the matter: *R. v. Israel* (1847) 2 Cox C.C. 263, where at the Central Criminal Court the Common Serjeant took this course after having consulted Patterson, J., and, since this is an issue with the affirmative on the prisoner, counsel is entitled to call witnesses and address the jury on his behalf: *R. v. Roberts* (1816) Carr. Sup. Cr. Law 3rd Edn. 57.

The subsequent procedure differs, however, according to the finding by the jury, *i.e.*, whether it is to the effect that the prisoner stands (i) mute of malice, or (ii) mute by the visitation of God.

(i) *Mute of Malice*. Where the verdict of the jury is that the prisoner stands mute of malice, in earlier days the prisoner had the judgment *piene fort et dure* (2 Hale P.C. 317), and by the Felony and Piracy Act, 1772, persons arraigned for felony or piracy standing mute were convicted of such felony or piracy. This last Act, however, was virtually repealed by the Criminal Law Act, 1827, which now governs the matter, and it has since been repealed by the Statute Law Revision Act, 1948, s. 1 and sch. 1. At the present time by s. 1 of the Criminal Law Act, 1827, (in conjunction with the Felony Act, 1841, as regards Privilege of Peerage now abolished by the Criminal Justice Act, 1948, s. 30 (1)) if any person who is arraigned upon any indictment for treason, felony or piracy shall plead thereto a plea of "not guilty," he shall by such plea without any further form be deemed to have put himself upon the country for trial, and the court is directed in the usual manner to order a jury for the trial of such person accordingly. As regards the entry of a plea on behalf of the prisoner, it is provided by s. 2 thereof that if any person being arraigned upon or charged with any indictment or information for treason, felony, piracy, or misdemeanor, shall stand mute

of malice, or will not answer directly to the indictment or information, in every such case it shall be lawful for the court, if it shall so think fit, to order a plea of "not guilty" to be entered on behalf of such person, and that the plea so entered shall have the same force and effect as if such person had actually pleaded the same. Under the provisions of this Act therefore the trial may proceed to conviction and sentence even where the prisoner stands mute of malice throughout the trial (see where the Statute was applied *R. v. Yscuado* (1854) 6 Cox C.C. 386; *R. v. Schleter* (1866) 10 Cox C.C. 400).

It may be noted that this section was also applied where the prisoner stated that he refused to plead since he had already pleaded to the indictment in a trial which had been held to be a nullity: *R. v. Bitton* (1833) 6 C. & P. 92; and where the prisoner declined to plead on the ground that the court had no jurisdiction; *R. v. Bernard* (1858) 1 F. & F. 240; and see *R. v. Southey* (1865) 4 F. & F. 864.

(ii) *Mute by the visitation of God*. Where the verdict of the jury is that the prisoner stands mute by the visitation of God (*e.g.*, is deaf and dumb; *R. v. Jones* (1773) 1 Lea 102; 452 N.; *R. v. Dyson* (1831) 7 C. & P. 305 N.; *R. v. Pritchard* (1836) 7 C. & P. 302; *R. v. Whitfield* (1850) 3 C. & K. 121; *R. v. Berry* (1876) 1 Q.B.D. 447; or is too deaf to hear the reading of the indictment; *R. v. Steel* (1787) 1 Lea 451; *R. v. Halton* (1824) R. & M. 78; *R. v. Stafford Prison (Governor) Ex parte Emery* (1909); 73 J.P. 284), this finding is not by itself a bar to the trial of the indictment. It is stated in Hale (2 P.C. 317) that if such a verdict is found, the jury are to inquire touching all those points, which the prisoner might possibly plead for himself, as whether a felony were done, whether he be the same person that is indicted for it, whether he did it, and whether he hath any matter to allege for his discharge; but whether judgment of death can be given against such a prisoner, who has never pleaded and can say nothing in arrest of judgment, is stated to be a matter which is open to doubt.

As regards the entry of a plea on behalf of such a prisoner, it is stated in *Blackstone* (Vol. 4 324) that the judges of the court (who are to be of counsel for the prisoner and to see that he hath law and justice) shall proceed to the trial, and examine all points as if he had pleaded not guilty. In *R. v. Whitfield, supra*, Vaughan Williams, J., allowed the prisoner's counsel to plead not guilty for him, and in *Ex parte Emery* Lord Alverstone, C.J., after stating that where the only finding of the jury is that the prisoner is mute by the visitation of God, went on to say that he may be perfectly well able to defend himself, and that a plea of not guilty should be entered by the court and the trial should proceed in the ordinary way.

Thus in *R. v. Steel, supra*, the prisoner, a woman, who had on her arraignment refused to plead, was found by the jury to be mute by the visitation of God, and the question whether under these circumstances she could be tried upon the indictment was referred for the consideration of all the judges at Serjeants' Inn Hall. In giving their opinion Gould, J., says: "That the verdict finding the prisoner to be 'mute by the visitation of God' was not an absolute bar to her being tried upon the indictment; . . . That great diligence and circumspection, however, ought to be exercised in a so critical a case; and that if all means to convey intelligence to the mind of such a prisoner respecting the nature of the arraignment should prove ineffectual, the Clerk of the Arraignment may enter the plea of Not Guilty for

the prisoner; and then it becomes the duty of the court to inquire touching all those points of which the prisoner might take advantage herself; to examine all the proceedings against her with a critical eye; and to render her every possible service consistent with the rules of law." The prisoner was at a later session again put upon her arraignment, and upon being called upon to plead, she replied "you know I cannot hear," whereupon a jury was again returned who again found a verdict that she was "mute by the visitation of God." The same jury were then immediately sworn in-chief and charged to try the indictment, and the prisoner was then found guilty of simple grand larceny and received sentence of transportation. Again, in *R. v. Jones*, *supra*, where the prisoner, who appeared to be deaf and dumb and who was found by the jury to be "mute by the visitation of God," was convicted of simple larceny and received sentence to be transported. There, however, a witness, who stated that she was able to communicate with the prisoner by means of signs and tokens, was sworn to interpret the proceedings to him.

The principle of these two cases was later applied in *R. v. Halton*, *supra*, where at a trial before the Recorder of Bristol the

prisoner, who said he was quite deaf but could read print or large writing, was found by the jury to be mute by the visitation of God, and was then tried by the jury on the indictment and was acquitted. It appears there that the evidence of each witness was taken down in a large hand and shown to the prisoner before the witness retired, and that the prisoner read it and asked some questions about words in the writing which he could not make out, but he did not cross-examine the witnesses (see also *William Thompson's case* (1827) 2 Lew 137).

In conclusion, however, it may be noted that a finding by the jury that a prisoner is "mute by the visitation of God" is not conclusive of the matter where the prisoner is incapable of pleading and of understanding the proceedings. In such a case it is also necessary for the jury to inquire whether the prisoner is "insane" within the meaning of the Criminal Lunatics Act, 1800, s. 2, so that, if such a verdict is returned by them, he may be ordered under this Act to be kept in strict custody until Her Majesty's pleasure shall be known (see, as regards a finding of "insanity" under the Act of 1800, the case of *Ex parte Stafford*, *supra*).

M.H.L.

NEW TOWNS

By LORD MESTON, *Barrister-at-Law*

The New Towns Act, 1946, has been in operation for over five years and it may be interesting to note some of the important provisions of this Act and then pass on to examine how it is being administered and the results achieved up to the present time. The object of the Act is "to provide for the creation of new towns by means of development corporations, and for purposes connected therewith." The first step in planning a new town is to choose the site. The Act of 1946, s. 1, provides that "(1) If the Minister is satisfied, after consultation with any local authorities who appear to him to be concerned, that it is expedient in the national interest that any area of land should be developed as a new town by a corporation established under this Act, he may make an order designating that area as the site of the proposed new town; (2) The provisions of sch. 1 to this Act shall have effect with respect to the procedure to be followed in connexion with the making of orders under this section . . ." Schedule 1 provides in substance that when the Minister proposes to make an order under s. 1 of the Act, he must prepare a draft of the order, describing the area to be designated as the site by reference to a map, and publish a notice as to the proposed order specifying the time within which objections may be made. If objections are made and not withdrawn, the Minister must, before making the order, cause a public local inquiry to be held. When the order is eventually made the Minister must publish a notice stating that the order has been made. The word "consultation" in s. 1 (1), *supra*, has been the subject of dispute and consequent recourse to the Court. In *Fletcher v. Minister of Town and Country Planning* [1947] 2 All E.R. 496; 111 J.P. 542, it was held that the New Towns Act, 1946, does not prescribe any particular form of consultation; that consultation may be of a somewhat continuous process, and the happenings at one meeting may form the background of a later one. If a complaint is made of failure to consult, it will be for the court to examine the facts and circumstances of the particular case and to decide whether consultation was in fact held. In *Rollo v. Minister of Town and Country Planning* [1948] 1 All E.R. 13; 112 J.P. 104, the Court of Appeal held that there is no need for the Minister to complete his "consultation" with local authorities before he publishes the draft order. "Consultation" means that on the

one hand the Minister must supply sufficient information to the local authority to enable them to tender advice, and, on the other hand, a sufficient opportunity must be given to the local authority to tender that advice. On the question of the public local inquiry which has to be held if objections to the draft order are not withdrawn, the report of the inspector appointed by the Minister to hold that inquiry is a departmental document and need not be disclosed. Further, in *Franklin v. Minister of Town and Country Planning* [1947] 2 All E.R. 289; 111 J.P. 497, it was held by the House of Lords that, in considering the report of the person who has held the public local inquiry to consider the objections to the proposed order, the Minister has no judicial or quasi-judicial duty imposed on him, so that considerations of bias in the execution of such a duty are irrelevant, the sole question being whether or not he genuinely considered the report and the objections. The public local inquiry is held with respect to the objections only and it is not the duty of the Minister to call evidence in support of the order, since the object of the inquiry is to inform his mind and not to consider any issue between him and the objectors. It will be noted, therefore, that the public local inquiry is not a judicial or quasi-judicial one; it is merely a step in the administrative process by means of which objections are stated and the Minister is made aware of the extent to which his proposals are opposed. When the Minister has considered the report of the inspector who held the inquiry he makes his decision public in a letter giving his observations to the objectors.

It will be observed that a site which is to be developed as a new town must be designated before the development corporation, to which we refer later, is established, and, therefore, before any detailed work has been done on the lay out of the town. The effect of designation is merely that the land within the area may be developed, and may be compulsorily acquired whether it is to be developed or not. In practice the designated areas are kept as small as possible, principally in order to avoid taking valuable agricultural land, though it is seldom practicable to avoid encroaching on some agricultural land. A site for a new town must, however, include some reasonably level and stable ground if the costs of development are to be kept down; it

must adjoin a railway, and it must be possible to supply water, drainage, and sewerage, for a reasonable outlay. A new town to relieve an overcrowded city must not be too far distant from the latter. The search for a site for a new town in or near a coal mining area is complicated by the large amount of land which is subject to subsidence, and this difficulty has in fact led to abandoning tentative proposals for new towns in the area of the Welsh coalfields. As above noted the designated areas are kept as small as possible. The total area actually designated for the twelve new towns in England and Wales amounts to 49,394 acres, and the particular areas range from approximately 6,000 acres for the larger towns down to 880 acres for the smallest, Aycliffe. Basildon, for which 7,800 acres were designated, is not typical; the area includes a great deal of scattered, sub-standard development which must eventually be laid out afresh.

When he has designated a site, s. 2 of the Act empowers the Minister to appoint a development corporation but, before doing so, he must consult the local authorities concerned. A development corporation may consist of not more than nine members, and the Minister is obliged to consider appointing at least one member living in, or having special knowledge of, the locality. Development corporations are required to lay out and develop the new towns in accordance with proposals approved by the Minister, and for that purpose they have power "to acquire, hold, manage and dispose of land and other property, to carry out building and other operations, to provide water, electricity, gas, sewerage, and other services, to carry on any business or undertaking in or for the purposes of the new town and generally to do anything necessary or expedient for the purposes of the new town or for purposes incidental thereto."

It will be appreciated that an enormous amount of preparatory work must be done by development corporations before they start erecting buildings, let alone receiving any revenue. On an average, development corporations require from one to two years in which to collect staff, find offices, settle the broad outlines of their plan, acquire some land, and start opening up sites, before they embark on much in the way of physical development. The first big projects must be concerned with the provisions of essential services—roads, water, sewerage, land drainage—and it is inevitably some time before they can start building houses and factories on any scale. That being so, the question arises, how are development corporations financed? The answer is that these corporations are wholly financed from the Exchequer. Section 12 of the Act of 1946 provides that for the purpose of enabling a development corporation to defray expenditure properly chargeable to capital account, including the provision of working capital, the Minister may make advances to the corporation repayable over such periods and on such terms as may be approved by the Treasury. The amount which might be so advanced on capital account was limited by the Act of 1946 to fifty million pounds. However, when the Bill (which later became the Act of 1946) was presented to Parliament, the Minister made it clear that the sum of fifty million pounds was expected to cover about the first five years, after which it would be necessary to seek parliamentary authority for a further sum to be made available. That time has now arrived. By May, 1952, the original figure of fifty million pounds was practically exhausted, and accordingly the New Towns Act, 1952, which was passed on June 26, 1952, obtained the consent of Parliament to the advance of a further fifty million pounds for the development of these new towns. It is expected that this sum will be spent within the next two years, and that in 1954 it will be necessary to seek authority for a further sum to enable the programme to be continued. The total cost of the new towns cannot be forecast with any certainty, but it has been estimated that the cost to the

Exchequer will be somewhere between £225,000,000 and £250,000,000 spread over a period of at least twenty years. As above noted, the advances made to corporations have to be repaid over such periods and on such terms as may be approved by the Treasury. Up to the present time the repayment of capital has been deferred. The grants made to the corporations cover not only capital expenditure but in effect discharge the inevitable net deficit for some years to come on revenue account. The rate of grant actually paid by the Exchequer was fifty per cent. for the first year of operations, and thereafter twenty-five per cent. for succeeding years. The balance of expenditure not covered by grants is treated as part of the cost of securing the creation of the new town and is transferred to capital account.

Space does not permit discussion of the many functions of development corporations, but it can be readily understood that one of the most important of these functions is the acquisition of land. Section 4 of the Act provides in terms that a development corporation may acquire either by agreement or compulsorily—(1) land within the designated area; (2) land adjacent to that area required in connexion with the development; and (3) any land, whether adjacent to the designated area or not, which they require for the provision of services for the purposes of the new town. As a matter of policy owing to the restriction of capital investment in present economic circumstances, development corporations have generally had to refrain from buying more land than is needed for their programme of works in the next year or two. Hence, although the total area designated for the twelve new towns in England and Wales amounts to 49,394 acres, the amount of land (developed and undeveloped) actually acquired up to December 31, 1950, was 6,338 acres, at a total cost of £1,817,958.

A few general observations to conclude our remarks on this subject. During the past five years fourteen areas have been designated as new town sites. Of these, eleven are in England, one in Wales, and two in Scotland. Eight of the English new towns are within twenty miles of Charing Cross and are intended to take people and industry from the congested areas of inner London. These are Stevenage, Crawley, Hemel Hempstead, Harlow, Welwyn Garden City, Hatfield, Basildon, and Bracknell. Four new towns are in the provinces, and are Aycliffe and Peterlee, both in Durham, Cwmbran in Monmouthshire, and Corby in Northamptonshire. The proposed population of the whole twelve new towns (i.e. in England and Wales) is 501,000, and the total area designated amounts to 49,394 acres. Altogether thirteen development corporations have been set up, one of which serves the two areas designated at Welwyn and Hatfield. In addition it may be mentioned that, although sites have not been designated, Manchester corporation are proposing a new town at Congleton, and the Lancashire Development Plan is proposing a new town at Skelmerdale.

The new towns in actual existence are in varying stages of development. At the end of April, 1952, 5,179 houses had been completed and 7,144 were under construction. The total number of houses in contracts then current was about 13,200. By the end of October, 1952, it is estimated that about 9,000 houses will have been completed, and the contracts that will be current at that time (end of October, 1952) will be in the neighbourhood of 19,000 houses. In the new towns around London, thirty-four factories have been completed, and nineteen are under construction. These figures may not be very impressive, but in all fairness it must be remembered that the amount of preparatory work, both administrative and otherwise, to be done by a development corporation is enormous, and the actual work of physical construction is restricted by the difficulties of obtaining adequate and skilled labour and by the limitations imposed

by the capital investment programme. New towns are a great venture, and in all such enterprises a policy of optimism should be coupled with prudence. As Lord Woolton, speaking on behalf of the Government, said on February 26, 1952, "So far as the extension of this idea of new towns is concerned, the

Government, generally speaking, would, before they embark on a very extensive enterprise of this nature, like to wait and see a little more clearly what measure of success will come from it." (*Hansard*, House of Lords, vol. 175, No. 28, Tuesday, February 26, 1952.)

WEEKLY NOTES OF CASES

COURT OF APPEAL

(Before Sir Raymond Evershed, M.R., Denning and Romer, L.JJ.)

BIRCH v. WIGAN CORPORATION

Oct. 16, 17, Nov. 3, 1952

Housing—Closing order—Part of building—House in terrace unfit for human habitation—Power to make closing order—Housing Act, 1936 (26 Geo. 5 and 1 Edw. 8, c. 51), s. 11 (4), s. 12 (1).

APPEAL by the defendant local authority from an order of His Honour Judge Brown, at Wigan County Court, quashing an order made by the authority under s. 12 (1) of the Housing Act, 1936, for the closing of three houses belonging to the respondent, on the ground that the order was *ultra vires*.

In a block of six terraced houses three houses became unfit for human habitation and were not capable at a reasonable expense of being rendered fit, but the unfit houses could not be demolished without making the three good houses uninhabitable. The local authority having made a closing order under s. 12 (1) of the Housing Act, 1936, relating to the three unfit houses, the owner contended that the order was *ultra vires* because the authority only had power to make a demolition order under s. 11 (4) of the Act.

Held: (Denning, L.J., dissenting): sections 11 and 12 of the Housing Act, 1936, were mutually exclusive; once the conditions of s. 11 of the Act were shown to exist the local authority became bound to set in motion the machinery for demolition prescribed in that section; and, therefore, the authority had no power to make a closing order.

Appeal dismissed.

Counsel: *Rigg* for the corporation; *W. D. T. Hodgson* for the owner.

Solicitors: *Ruston, Clarke & Ruston*, for *Allan Royle*, town clerk, Wigan; *Gregory, Rowcliffe & Co.*, for *Hall, Brydon & Co.*, Manchester.

(Reported by F. Guttman, Esq., Barrister-at-Law.)

(Before Somervell, Jenkins and Hodson, L.JJ.)

Re K (an infant)

Oct. 6, 7, Nov. 3, 1952

Adoption—Dispensing with consent to order—"Consent . . . unreasonably withheld"—Relevant considerations—Adoption Act, 1950 (14 Geo. 6, c. 26), s. 3 (1) (c).

APPEAL from Derby and Long Eaton County Court.

The mother of an infant left her husband, the father of the infant, three weeks after the infant was born, and went to live with her parents. Later, she obtained an order of justices giving her the custody of the infant and directing the father to pay 15s. a week for its maintenance. The mother, wishing to go out to work, on the advice of the children's officer of the local authority, placed the infant in the care of foster-parents who received the 15s. from the father and a further 5s. a week from the mother who visited the infant from time to time. After about a year, the mother began to live with a married man, intending, if and when it became possible, to marry him. The foster-parents approached the mother with a view to adopting the infant, and on March 1, 1952, the mother consented in writing to the adoption, but on April 28, 1952, she withdrew her consent. On an application by the foster-parents to the county court for an adoption order in respect of the infant, the county court judge held that, in the circumstances, the mother's consent had been unreasonably withheld within the meaning of s. 3 (1) (c) of the Adoption Act, 1950, and he made an interim order in favour of the applicants.

Held: in determining whether the mother's consent to the order was unreasonably withheld within the meaning of s. 3 (1) (c) the facts that the order, if made, would conduce to the welfare of the child, that the mother had seen fit to place the infant in the care of foster-parents (without in any way abandoning it), and that she had previously consented to the adoption were not evidence that her consent was unreasonably withheld, and, therefore, the county court judge had misdirected himself and his decision was wrong, and an adoption order should not be made.

Hitchcock v. W.B. (1952) (116 J.P. 401) approved.

Counsel: *Maude, Q.C.* and *Gwynedd Lewis*, for the respondent mother; *Carter, Q.C.*, and *Bush*, for the applicants; *Harold Lightman*

for the Derby Education Committee, as guardian *ad litem* of the infant.

Solicitors: *Gibson & Weldon*, for *Miss M. A. Booth*, Derby; *Maddisons & Lambs*, for *Irving, Sitdown & Co.*, Derby; *Sharpe, Pritchard & Co.*, for *E. H. Nichols*, town clerk, Derby.

(Reported by G. F. L. Bridgman, Esq., Barrister-at-Law.)

COURT OF CRIMINAL APPEAL

(Before Lord Goddard, C.J., Finemore and McNair, JJ.)

R. v. DYER AND OTHERS

Oct. 20 and 27, 1952

Criminal Law—Malicious damage—Abatement of trespass—Common—Board placed by permission of parish council—Sign directing to building site—No lawful authority for placing of board—Malicious Damage Act, 1861 (24 and 25 Vict., c. 97), s. 51—Commons Act, 1899 (62 and 63 Vict., c. 29), s. 1 (1), s. 3, s. 4.

APPEAL against conviction.

The appellants were convicted at Somerset Quarter Sessions of malicious damage to a notice board on a common and its supporting scaffolding and were conditionally discharged. A scheme for the regulation of the common was made by the rural district council on December 2, 1924, and was confirmed by the Minister of Agriculture on January 17, 1925. By a resolution dated February 24, 1925, the rural district council, in exercise of powers conferred by s. 4 of the Commons Act, 1899, delegated their powers of management of the common to the parish council. By a resolution of December 28, 1951, the parish council, purporting to act under a bylaw made in February 24, 1925, gave permission to Hayes, Ltd., a company carrying out works on a building site in the neighbourhood of the common, to erect on the common a board measuring six feet by three feet and held in position by tubular scaffold poles sunk into the ground. The board had on it the name "Hayes" in large letters, with the word "contractors" in smaller lettering below, and beneath the latter word was a thin arrow pointing in the direction of the building site. On the night of February 25, 1952, the board was removed and its supports damaged. The appellants, all of whom were commoners, admitted being concerned in the act of damage, but contended that the placing of the board on the common was a trespass which they, as commoners, were entitled to abate. At the close of the case for the prosecution it was submitted by the defence that there was no case to answer inasmuch as no lawful authority for the erection of the board had been shown, but the court overruled the submission.

Cur. adv. vult.

Held, that under s. 1 (1) of the Commons Act, 1899, a district council (which, by s. 4, may relegate its powers of management of a common regulated by a scheme made by it to a parish council) may provide, either by the scheme or by byelaws and regulations "for the prevention of nuisances and the preservation of order" on a common, but that the council in the present case had no power to authorize the placing on a common of a notice board of the kind in question, which had nothing to do with the common or the preservation of order therein. The board had, therefore, been placed on the common without lawful authority, the appellants as commoners were entitled to remove it, the submission at quarter sessions should have succeeded, and the convictions must be quashed.

Counsel: *Lavington and W. M. Huntley*, for the appellants; *J. A. Cox* for the Crown.

Solicitors: *The Registrar, Court of Criminal Appeal*; *E. J. Watson, Cox & Counsell*, Bristol.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

(Before Lord Goddard, C.J., Parker and Havers, JJ.)

R. v. CRABTREE

Oct. 27, 1952

Criminal Law—Antecedents of prisoner—Reference to prisoner's associates—Information to be given to defending solicitor before trial.

The court, in giving judgment in this case, referred to a Home Office Circular issued in September, 1950, for the guidance of Chief Constables and police officers, and laid down the following principles: (i) A police officer, giving evidence of a prisoner's antecedents after conviction, may give evidence of the prisoner's general associates, provided that the officer confines himself to matters within his own knowledge. (ii) The court sees no objection to the paragraph which states: "Details of previous convictions should not be given to defending solicitors before trial unless the chief officer of police is satisfied that the solicitor has his client's authority for requesting this information." (iii) The court does not approve the paragraph which states: "As regards details of antecedent history other than convictions, the Secretary of State suggests that there is no reason why this should be given." In the view of the court it might be proper to communicate to the defence that a prisoner had a bad character through being known as an associate of thieves, etc.

(Reported by T. R. Fitzwalter Butler Esq., Barrister-at-Law.)

PROBATE, DIVORCE AND ADMIRALTY DIVISION

(Before Lord Merriman, P., and Davies, J.)

COOPER v. COOPER

Oct. 15, 1952.

Husband and Wife—Maintenance—Conflict of jurisdiction—Decree of judicial separation—Application to High Court for permanent alimony discharged—Summons for maintenance in court of summary jurisdiction.

On October 9, 1946, the wife obtained a decree of judicial separation.

On November 15, 1947, she applied to the registrar for an order for the payment of permanent alimony. On January 16, 1952, this application was discharged at the wife's request. On February 22, 1952, the wife applied to justices for a maintenance order against her husband, alleging that he had wilfully neglected to provide reasonable maintenance for her.

Held: On January 16, 1952, the then existing proceedings for alimony in the High Court were terminated; the mere fact that the wife had a right to make a further application to the High Court for permanent alimony, or the possibility that at some future date she might make such an application, did not create either an actual conflict of jurisdiction, or a reasonable likelihood or probability of such a conflict, between the court of summary jurisdiction and the High Court; and, therefore, the justices were bound to hear and determine the summons.

Poolley v. Poolley ([1952] 1 All E.R. 395), applied.

Quære, whether as a result of the difference in wording between s. 190 (4) of the Supreme Court of Judicature (Consolidation) Act, 1925, and s. 20 (2) of the Matrimonial Causes Act, 1950, the principles relating to the time within which an application for permanent alimony must be brought after a decree of divorce or nullity now apply to such an application after a decree of judicial separation, and whether r. 45 of the Matrimonial Causes Rules, 1950, is *ultra vires*.

Counsel: D. H. Robson for the wife; J. Gills for the husband.

Solicitors: Theodore Goddard & Co., and Deacons & Pritchards, for H. K. & H. S. Bloomer & Co., Grimsby; Russell Jones & Walker, for Pearlman & Rosen, Hull.

(Reported by G. F. L. Bridgman, Esq., Barrister-at-Law.)

MISCELLANEOUS INFORMATION

MOTOR VEHICLE REGISTRATION MARKS LETTERS TO FOLLOW NUMBERS

Within a few months all the available registration marks for motor vehicle number plates in some parts of Great Britain will have been exhausted. When this happens, it is proposed to introduce a new system of marks under which the letters will be placed after the numbers instead of in front.

This system has been decided upon by the Minister of Transport, the Rt. Hon. Alan Lennox-Boyd, M.P., after considering various alternatives and consulting the police, the motoring organizations, and appropriate transport bodies. The new system will, of course, apply to new registrations only and will be brought into use only as registration authorities use up their existing index letters. In most areas the change will not be necessary for many years.

The purpose of the registration mark is to identify each vehicle used on the roads according to its registration authority, and for this purpose one and two-letter marks were first allotted to the authorities as long ago as 1903. By 1932 the series of one and two-letter marks was becoming exhausted, and three-letter combinations were introduced. The method then adopted was to add a third letter in front of each of the two-letter combinations already allotted to the registration authorities.

The same general principle is being followed now so that any combination of letters following the numbers in the new system will represent the same registration authority as they did when preceding the numbers. As at present, the total number of figures and letters in any registration mark will not be more than six, and of these not more than four will be figures.

VITAL STATISTICS: THIRD QUARTER, 1952

The Registrar General announces that provisional figures for England and Wales for the third quarter of this year show that the fall in the birth rate since 1947 has been arrested, the death rate was the lowest since 1947, and that the death rate of children under one year of age and the stillbirth rate were the lowest ever recorded for any quarter in this country.

Live births registered numbered 167,938 representing a rate of 15.3 per thousand population, compared with rates of 15.2, 15.4 and 20.0 in the corresponding quarters of 1951, 1950 and 1947, respectively. The rate in the third quarter of 1938 was 15.2.

There were 98,666 deaths registered during the quarter, representing a rate of 9.0 per thousand population. This was the lowest rate since the September quarter of 1947, which had the record low rate of 8.9. The death rate in the third quarter of the year has risen above 9.3 only once (10.1 in 1944) in the last eleven years.

There were 3,865 deaths of children under one year of age registered in the quarter, representing an infant mortality rate of 23.0 per thousand related live births. This was the lowest rate ever recorded for any quarter in this country and compares with the previous lowest of 23.4 in the third quarter of last year. The rate in 1938 was 42.5.

Stillbirths registered in the quarter numbered 3,696, representing a rate of 21.5 per thousand total live and still births. This was the lowest rate ever recorded for any quarter in this country and compares with the previous lowest of 21.8 in the third quarter of last year and a rate of 37.0 in the same quarter of 1938.

RATES OF INTEREST UNDER COMPANY ACT, 1948,

ss. 322 and 362

Her Majesty's Treasury have made Orders under ss. 322 and 362 of the Companies Act, 1948, which revise the rates of interest which fall to be prescribed by the Treasury under those sections.

Subsection (1) of s. 322 of the Companies Act, 1948, provides that, where a company is being wound up, a floating charge on the undertaking or property of the company shall in certain circumstances be invalid, except to the amount of any cash paid to the company at the time of, and in consideration for, the charge, together with interest on that amount at the rate of five per cent. per annum or such rate as may for the time being be prescribed by order of the Treasury.

The Companies Winding Up (Floating Charges) (Interest) Order, 1949, prescribed a rate of four per cent. per annum; that Order is revoked by the Companies Winding Up (Floating Charges) (Interest) Order, 1952 (S.I. 1952 No. 1865), so that the rate now reverts to five per cent. per annum.

Subsection (4) of s. 362 of the Companies Act, 1948, provides that, when the balance at the credit of any company's account in the hands of the Board of Trade exceeds £2,000 and the liquidator gives notice to the Board that the excess is not required for the purposes of the liquidation, the company shall be entitled to interest on the excess at the rate of two per cent. per annum or such other rate as may for the time being be prescribed by order of the Treasury.

The Companies Liquidation Account (Interest) Order, 1949, prescribed a rate of one per cent. per annum; that Order is revoked by the Companies Liquidation Account (Interest) Order, 1952 (S.I. 1952 No. 1864), so that the rate now reverts to two per cent. per annum.

Both orders came into operation on November 1, 1952.

MR. MARPLES' ADVICE TO PLANNERS

Speaking to the Annual National Conference of the Town and Country Planning Association at the County Hall, London, recently, Mr. Ernest Marples, Parliamentary Secretary to the Ministry of Housing and Local Government, said:

"Where to put new houses so as to lose as little farm land as possible presents the planner of today with his main challenge. An essential part of this process is to make the wisest use of the central sites from which derelict and out-worn housing must be cleared.

"In the town plans, which form part of the development plans recently submitted by county boroughs, there has been a tendency to allocate new land for housing when the old land could still be used without abandoning the standards we have set ourselves. I do not think I should be overstating it if I said that sometimes the planning

authority seems to have had a blind spot for the possibilities of some of the gaps and undeveloped sites within the existing urban areas. It is essential that town plans should never lay themselves open to the charge of having condoned even the beginnings of decay and waste at the heart of the town, while growth continued at the extremities.

"In spite of this, I have no hesitation in saying that the development plans now coming in are the most realistic so far produced. In contrast with much of the planning which took place before 1939, the present type of development plan is not simply restrictive. It can be, and generally is, a constructive instrument of policy. This is largely due to the thorough nature of the surveys which preceded the plans.

These surveys really show how local needs compare with local resources in such matters as houses, schools, roads and public buildings. And in the matter of open spaces, who can say whether any systematic attempt would have been made to grapple with this problem had it not been for the spur the development plans provided?

"We shall, of course, continually have to modify the assumptions on which plans are based. Already we have had to modify our views on our national physical resources, particularly our resources of land. But development plans are being drawn up with the realization that changes must and can be introduced, and one of the great gains of the system is the increased attention it will cause one authority to give to the progress and fortunes of another authority's plans."

REVIEWS

Stone's Justices Manual. Eighty-fourth Edition. Edited by James Whiteside, solicitor, clerk to the justices for Exeter, and J. P. Wilson, solicitor, clerk to the justices for Sunderland. London: Butterworth & Co. (Publishers) Ltd., Bell Yard, Temple Bar, Shaw and Sons, Ltd., 7-9 Fetter Lane, E.C. Price: thin paper edition 82s. 6d. net. Thick paper edition 77s. 6d. net.

By now we have become used to our old friend *Stone* divided into two volumes, and so we need not be depressed by the intimation that the prospect of a return to a single volume is still remote. The main point is that *Stone* still comes out every year and remains in the hands of the most competent editors. This year's volume is the joint work of two of the best known and most respected clerks to justices, and users can be sure that it has been carefully and accurately done.

We commented last year on the impossibility of carrying out such a task as the production of a book of this size, scope and detail so as to make it up to date at the time of publication. The difficulties of production tend to increase rather than diminish, and it cannot be helped that this edition does not claim to state the case law at a later date than October, 1951, though all relevant statutes for the whole year are dealt with.

There are many new statutes, and over 100 reported cases, which make it essential that officials and practitioners should have this new edition and not rely on an earlier one. There has been some re-arrangement of matter, and additions have been made, apart from new law, where experience has shown they are necessary. The provisions of the Justices of the Peace Act, 1949, most of which are now in force, or soon will be, are now set out in one place. Part 2 of the Licensing Act, 1949, has been brought into force recasting the constitution of licensing authorities and, in the words of the editors, "effecting most welcome reforms in the law governing the statutory disqualification of justices for acting in the administration of licensing law." The material which formerly concluded the work, and appeared after the alphabetical Part V, has been reclassified. It now appears as seven appendices dealing respectively with forms, cautions, punishments, rules, court fees and costs regulations, general regulations and miscellaneous legislation.

In their preface, which once again we advise all readers to study carefully, the learned editors not only state concisely the substance of important decisions of the Superior Courts, but also add here and there a useful comment. Thus, after referring to the decision of the House of Lords in *Preston Jones v. Preston Jones* and to earlier cases, they advise that "a magistrates' court, dealing with a case in which the issue depends solely upon evidence of an abnormal period of gestation, should receive expert evidence of the development of the child at birth, and if it is proved to be a normal full-time baby, may be advised to regard 320 days (the period fixed by Lord Morton of Henryton) as the maximum upper limit of what is possible."

Many adjectives have been applied to *Stone* by way of commendation. The one most often used, and the most appropriate is "indispensable."

Consequential Fire Loss Insurance. By Lyndesay M. Currie. London: Gee & Co. (Publishers) Ltd. Price 21s. net.

This is another of the business textbooks issued by Messrs. Gee & Co., of which we have noticed several in recent years. The firm are specialists in publishing books on business subjects some of which, like that now before us, lie outside the normal purview of most of our own readers. We confess that it had not occurred to us that insurance against consequential fire losses could be made the subject of a textbook. Every business man and every local authority (we hope) insures as a matter of course against fire, but many may not have paused to consider whether their fire policies protect them against consequential losses. Of these, the most familiar in ordinary practice is the loss of rent, against which the prudent lessor insures; the ordinary insurance offices have long called attention to the possibility of covering this

particular item of consequential loss. Mr. Currie suggests in his preface that, in these days of stringency, many firms may say that consequential loss insurance is a luxury they cannot afford—or to put the same thing another way—a risk which they prefer to take.

Mr. Currie sets out to prove this is a mistaken policy. He urges that those advising business men and others on insurance should call attention to the dangers of being uninsured against secondary losses, and this is a part of the book which may be specially commended to the attention of solicitors. In this country, as the author points out, there has been no systematic effort by insurance companies to call the attention of their customers to the substantial hazards (apart, we should say, from the loss of rent) which are commonly run, through failure to insure against consequential loss, even where the direct fire loss is adequately covered—which it commonly is not. Although, as we have said already, it had not previously occurred to us that there was enough in this topic to justify a textbook of its own, our perusal of Mr. Currie's very informative pages has convinced us that the topic is well worth studying by our own readers, not merely those in private legal practice but also the legal advisers and the financial officers of local authorities. Suppose, for example, that a local authority's schools are adequately insured (and in practice are they so insured?) against the fire loss itself, what of the extra expenses likely to be incurred by finding substitute accommodation in the event of fire, and perhaps paying for the transport of children to more distant schools? Other, and perhaps better, instances may occur to readers of this notice. We have said enough to suggest to them that the topic is worth consideration, and that Mr. Currie's book will help in giving it that consideration.

Guilty or Not Guilty? By Francis X. Busch. Indianapolis and New York: The Bobbs-Merrill Company, Inc. Price \$3.50.

This is an account of the trials of Leo Frank, D. C. Stephenson, Samuel Insull, and Alger Hiss. Of these the Hiss case is now the best known in this country, on account of its political implications and the fact that a widely circulated book by Mr. Alistair Cook has dealt with it. The convolutions of this case, which covered two years, are dealt with briefly in some ninety pages which is, at any rate, a more readable account than can readily be found elsewhere of a most complicated matter. The trial of Samuel Insull, now nearly twenty years ago, drew great public interest in this country at the time, partly because Insull was by origin an Englishman and one who had made frequent visits to this country, where indeed he had largely contributed to charity. It was a shock to most people when he was charged with frauds, reminiscent of the names of Bottomley or Hooley. That Insull was finally acquitted has, probably, never entirely wiped out the bad effect produced on the public mind by his flight to Europe, which ended in extradition at the hands of a Turkish court.

The case of D. C. Stephenson is hardly remembered in this country. It was a charge of murder following an attempt at rape and was made to look political, in that Stephenson had (although his connexion with it had been severed) at one time been a Grand Dragon of the Ku Klux Klan, and based his defence upon a story that the Grand Wizard and other leaders of the Klan had "framed" him. From a purely legal point of view the interesting circumstance is that the victim of the alleged rape became mentally deranged and committed suicide—a sequence of events which led to Stephenson's being charged with murder, and finally convicted. The best verdict which the impartial reader of these pages can form, on the information given, is that the whole matter was extremely strange. Stephenson was not executed, but kept in prison for twenty-five years, throughout which period he maintained the assertion that he had been a victim of the vengeance of the Klan. The trial, with his allegations, undoubtedly damaged the Klan in public estimation, and had thus a political effect. The remaining case, that of Leo Frank, had also a political or near-political significance in that the accused man was a Jew and allegations were

made that it was for this reason that he had been prosecuted. Frank, after being sentenced to death, had his sentence commuted to life imprisonment, and this in some quarters was said to be the result of bribery. An indignant mob took him out of gaol and hanged him; their action, again, gave ground for reviving bitter controversies between North and South reminiscent of animosities of fifty years before. This is an episode of great human interest, while the lawyer must marvel at a legal system where hearing after hearing could go on for two years, culminating in the executive government's holding

public meetings at which testimony was invited for or against the condemned man.

As we have said about another work, which reached us for review at the same time, three and a half dollars at the present rate of exchange is a lot of money to pay for less than three hundred pages of reading matter. There is, however, a great deal of interest to be had from the book, and persons prepared to pay this price are likely to feel that they have had their money's worth.

THE WEEK IN PARLIAMENT

From Our Lobby Correspondent

BILL ON FLOGGING

Wing Commander E. Bullus (Wembley, N.), who has been successful in the Private Member's ballot, is to introduce a Bill to give the courts powers to impose corporal punishment for offences involving violence to the person.

I understand that the Bill would restore the pre-1948 powers to award corporal punishment for armed robbery and robbery with violence, and would extend them to cover felonious and malicious wounding, rape and indecent assault on females.

There is a widely held view that the Government may leave this Bill to a free vote of the House.

CRIMES OF VIOLENCE

Captain R. E. D. Ryder (Merton and Morden) asked the Secretary of State for the Home Department whether he would indicate the extent to which crimes of violence had decreased or increased since corporal punishment had been abolished.

The Secretary of State for the Home Department, Sir D. Maxwell Fyfe, replied that before corporal punishment was abolished as a judicial penalty in September, 1948, the only important offences for which it could be imposed on male adults by the courts were offences of armed robbery and robbery with violence contrary to s. 23 (1) of the Larceny Act, 1916. In 1946 and 1947 there were respectively, 804 and 842 offences of that nature known to the police in England and Wales; the corresponding figures for 1950 and 1951 were 812 and 633. The provisional figure for the first six months of 1952 was 359.

Most other crimes of violence against the person have increased in recent years. In 1948, 646 cases of felonious wounding were known to the police in England and Wales, whereas the figure for 1951 was 1,078. For malicious wounding the figures for 1948 and 1951 were 3,547 and 4,445, respectively; for rape 252 and 335; and for indecent assault on females 5,659 and 7,287. Corporal punishment could not, however, be imposed as a judicial penalty for any of those offences before 1948.

CIVILIANS' POSSESSION OF FIREARMS

In the House of Lords, Lord Lawson asked the Government whether their attention had been drawn to the increasing possession of revolvers and other weapons by civilians, and what steps they were taking to put an end to that dangerous situation.

The Lord Chancellor, Lord Simonds, replied that since the war every endeavour had been made by the Home Secretary and his predecessor to reduce the number of firearms in the possession of civilians, and the appeals for the surrender of firearms had not been without success. In the nature of the case, however, firearms which were retained by individuals for criminal purposes were unlikely to be surrendered in response to official appeals, and the vigilance of the police could be exercised only in relation to persons whose conduct gave reasonable cause to suspect unauthorized possession of such weapons. Such evidence as was available did not point, however, to a significant increase in the use of firearms in connexion with crimes of violence.

Nevertheless, the Government recognized that there had of late been more armed outrages than could be contemplated with equanimity. The police themselves had best cause to take every practical step to limit the dangers to the community arising from the unlawful possession of firearms. The Home Secretary was confident that they were, in fact, doing so. The Government were watching the situation closely but were not satisfied that special action was called for on their part at the present time.

In reply to supplementary questions, the Lord Chancellor stated that in 1950 there were eighty-two prosecutions and seventy-six cautions under the Firearms Act, and in 1951 there were seventy-two prosecutions and 113 cautions. The numbers of cases in which the possession of firearms, whether used or not, had come to light in connexion with crimes of violence were as follows: in 1948, forty-eight cases; 1949, twenty-eight cases; 1950, thirty-nine cases; and 1951, fourteen cases. During the first nine months of 1952 there were seventeen cases.

APPROVED SCHOOL ORDERS, LONDON

Sir D. Maxwell Fyfe states in a written Parliamentary answer that on October 31, 1952, seven senior girls who had been ordered by courts in London and Middlesex to be sent to approved schools were in remand homes awaiting admission to Magdalen Hospital classifying school. The average waiting period for admission to the classifying school was at present about two weeks.

The pressure on accommodation in remand homes for older girls in the London area had resulted from a recent and, he hoped, temporary increase in the number of such girls brought before the courts. As an emergency measure, girls who were the subject of approved school orders already made by the Metropolitan juvenile courts and were accommodated in remand homes pending admission to the classifying schools were being allocated direct to training approved schools, except in special cases; and older girls committed to approved schools by those courts in the future would be dealt with in the same way, for the time being.

PRISON AND BORSTAL COSTS

Sir H. Williams (Croydon, E.) asked the Secretary of State for Scotland why in 1951-52 it cost £403 per head to keep in prisons 1,941 prisoners and borstal inmates as compared with £316 per annum in England and Wales.

The Under-Secretary of State for Scotland, Mr. Henderson Stewart, replied that the explanation, in brief, was that the prisons and borstal institutions in Scotland were generally very much smaller than those in England and, therefore, more costly to run.

CORONATION AMNESTY SUGGESTED

Dr. S. W. Jeger (Holborn and St. Pancras) asked the Secretary of State for the Home Department whether, in view of the Coronation, he would consider advising that an amnesty or a remission of sentence be granted in certain types of cases.

Sir D. Maxwell Fyfe said he would note the suggestion, but it was only fair to say that there were many objections and difficulties.

PARLIAMENTARY INTELLIGENCE

Progress of Bills

HOUSE OF COMMONS

Wednesday, November 12

PUBLIC WORKS LOANS BILL, read 2a.

Thursday, November 13

NEW VALUATION LISTS (POSTPONEMENT) BILL, read 2a.

Friday, November 14

EDUCATION (MISCELLANEOUS PROVISIONS) BILL, read 1a.
COLONIAL LOANS BILL, read 2a.

NOTICES

The next court of quarter sessions for the city of Coventry will be held at the County Hall, Coventry, on Thursday, December 4, at 11 a.m.

The next court of quarter sessions for the borough of Shrewsbury will be held at the Shirehall, Shrewsbury, on Tuesday, December 16, at 11 a.m.

The next court of quarter sessions for the borough of Grantham will be held on Monday, December 22.

PERSONALIA

APPOINTMENTS

Mr. O. Beynon, deputy director of education for Carmarthenshire, has been appointed director of education for Radnorshire in succession to Major John Mostyn. Mr. Beynon was formerly assistant education officer for West Sussex.

Mr. W. A. Till, assistant solicitor to the Whitstable U.D.C. for the past sixteen months, has been appointed assistant solicitor to the Taunton borough council. Mr. Till was formerly committee clerk and later legal assistant to the Swadlincote U.D.C.

Mr. G. G. Burditt, L.L.B., deputy clerk of the Oxfordshire county council, has been appointed clerk in succession to Major F. G. Scott, M.C., D.L., who is to retire in March, 1953. Mr. Burditt joined the council in 1936 as assistant solicitor and became deputy clerk in 1946.

RESIGNATION

Mr. L. S. Sawtels, town clerk of Brackley, has resigned.

OBITUARY

Mr. A. W. Forsdike, O.B.E., town clerk of Kingston-on-Thames since 1927, died on November 4 at the age of sixty-one. He was educated at Haileybury and was articled as a solicitor at Sheffield. After being admitted he acted as prosecuting solicitor to Sheffield corporation, and for three years before his appointment to Kingston he was deputy town clerk of Burnley.

Mr. F. F. Haddock, for many years clerk to the Horsham R.D.C., and to the Horsham magistrates, died on November 4 at the age of eighty.

THE LATE SIR RONALD BOSANQUET, Q.C.

We announce with regret the death of Sir Ronald Bosanquet, Q.C., a former Official Referee of the Supreme Court at the age of eighty-four.

Sir Ronald came of a Huguenot family who had long been settled in Monmouthshire where his father the late Samuel Courthope Bosanquet had been High Sheriff and Chairman of Quarter Sessions. Born on September 6, 1868, he was educated at Eton and Trinity College, Cambridge where he gained second class Honours in the Law, Tripos and graduated L.L.B. He was President of the Cambridge Union Society in 1891. After reading with A. J. Ram as a pupil he was called to the Bar by the Inner Temple in 1893 and joined the Oxford Circuit. Sir Ronald became Recorder of Ludlow in 1919 and of Walsall in 1928. He enjoyed a considerable practice principally on Circuit taking silk in 1924 and becoming a Bencher of his Inn in 1930.

On the retirement of Sir William Hansell in 1931 from the office of Official Referee Bosanquet succeeded him.

He was an excellent Referee, competent, courteous, and quick and his Court was eagerly resorted to by litigants who had broad freedom of choice.

Sir Ronald was also Chairman of Monmouthshire Quarter Sessions and presided there with distinction for many years and with Mr. St. John Mickelthwait, Q.C., as his Deputy. He received the honour of Knighthood in 1942.

Amongst Sir Ronald's published works were *A Magistrate's Handbook* and *The Oxford Circuit* (a volume of reminiscences about life on the Circuit).

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 96.

TWO UNUSUAL CHARGES

Contraventions of the Fertilisers and Feeding Stuffs Act, 1926, were alleged at Swansea Magistrates' Court on October 15 last, when a limited company was charged, first, with an offence under s. 1 of the Act and, secondly, with an offence under s. 4 (3).

The first charge alleged that on selling nitrate of soda for use as a fertilizer of the soil, the company had failed to give to the purchaser as soon as reasonably practicable after delivery of the nitrate of soda, a statutory statement in writing containing the particulars required by s. 1 of the Act. The second charge alleged that the company had sold nitrate of soda which did not bear a mark stating or indicating the particulars required by the Act to be contained in the statutory statement, viz.: the amount of nitrogen contained in the said fertilizer before removal from the premises where it was prepared for sale.

For the prosecution, it was stated that the local chief inspector of weights and measures and one of his assistants saw a packet of fertilizer for sale in a shop in Morriston. The chief inspector noticed that the description on the wrapping was not in accordance with the provisions of the Act, and he thereupon entered the shop, and on inspection of the packet, saw that it did not comply with the Act.

The inspector also called for the invoice from the defendant company and noticed that there was omitted from it the particulars required by the statute.

The company, which had been convicted in March of this year for failing to give in writing particulars required in connexion with the sale of basic slag as a fertilizer, and was then fined £5, pleaded guilty, and was fined £5 upon the first charge, £10 upon the second, and ordered to pay £5 s.s. costs.

COMMENT

Section 1 of the Act of 1926 requires the seller, for use as a fertilizer of the soil or as food for cattle or poultry, of any article included in sch. 1 or 2 to the Act, to furnish the purchaser on or before delivery, or as soon as reasonably practicable thereafter, with a statutory statement specifying the name under which the article is sold, certain particulars of the nature, substance or quality of the article which are specified in sch. 1 or 2 to the Act and, where the article is a foodstuff, particulars as to the ingredients.

The information to be included in the statutory statement is, in the case of nitrate of soda, the amount of nitrogen and in the case of basic slag, the amount of phosphoric acid.

Section 8 of the Act provides that a person found guilty of an offence under s. 1 shall be liable on summary conviction in the case of a first offence to a maximum fine of £5 and in the case of a second or subsequent offence to a maximum fine of £10.

R.L.H.

No. 97.

EXPENSIVE CIGARETTES

A Cheltenham taxi-driver appeared before the local Magistrates on October 20 last, charged with knowingly having been concerned in dealing with certain uncustomed goods, viz.: 1,200 cigarettes with intent to defraud Her Majesty of the duties thereon, contrary to s. 186 of the Customs Consolidation Act, 1876.

For the prosecution, evidence was given that on a day in July defendant was seen with American servicemen at the back of his taxi and a canvas bag changed hands for money. After the Americans had gone away a policeman, who had been hiding in a copse nearby, asked defendant what he had in the bag. Defendant said he did not know and that he had lent the American £5 and had accepted the bag as security. The bag was found to contain 1,200 cigarettes and certain articles of toilet. The car was seized by H.M. Customs, but had been released after a month, when the defendant claimed hardship.

The defendant, who pleaded not guilty, denied buying the cigarettes and maintained that the Americans wanted a loan.

The court found the case proved and fined the defendant £50 and ordered him to pay £12 12s. costs. They further ordered that the car used in connexion with the offence should be condemned and forfeited. The justices allowed the defendant three months in which to pay the fine and in default of payment sentenced him to three months' imprisonment.

COMMENT

It is interesting to recall that penalties imposed under the Consolidation Act of 1876 have not, as have so many other penalties fixed in Victorian days, remained static. The steady fall in the value of money during the last half century coupled with a revival of professional smuggling as a career has led to the passing of s. 15 of the Finance Act, 1935, and s. 12 of the Finance Act, 1943. The combined effect of these sections is to enable an offender under s. 186 of the Act of 1876 to be punished by two years' imprisonment in addition to incurring the financial penalty provided by s. 186. The power to order forfeiture of the car referred to in the above report is derived from s. 202 of the Act of 1876.

(The writer is indebted to Mr. Eric D. Watterson, L.L.B., clerk to the Cheltenham Justices, for information in regard to this case.)

R.L.H.

No. 98.

TROUBLE DOWN THE MINE

Two men appeared before the West Riding Magistrates sitting at Pontefract recently to answer a charge laid under reg. 28 of the General Mines Regulations made under the Coal Mines Act, 1911. The defendants were tried separately, and in each case the charge

alleged conduct likely to endanger life and limb in the mine. The first defendant AB, a coloured man, came to the Pontefract district from Swansea and has been working in the mines in the district for about five years, and he and the other defendant CD had known each other from working in the pit for about six weeks prior to September 18 this year. On that date in the early morning, CD together with some other men was moving down the road underground to his work when he came upon AB. As they passed each other CD addressed AB as "Jack Black," "Black Jack" or "Dark Brown." The evidence was not clear as to the exact expression used though the intention was quite clear. AB told CD he knew that was not his name and that he was not to call him that any more. CD then repeated the remark, whereupon AB without more ado struck CD in the face knocking him to the ground and splitting the bridge of his nose fairly severely. The blow was sufficiently severe for the Deputy to send for a stretcher to remove CD from the pit.

Mr. H. J. Gundhill, solicitor, of Pontefract, who defended CD, and to whom the writer is indebted for this report, submitted that although the facts were more or less admitted mere words were not within the purview of the regulation and that the use of words could not possibly be an act likely to endanger life or limb in the mine.

The Bench overruled the submission. AB then told the magistrates that it was not the first or the second time that he had told CD to use his right name when addressing him and he added: "I was overwhelmed and I hit him and I am very, very sorry indeed."

The Bench fined both defendants £1 and bound them over for a year.

COMMENT

Mr. Gundhill tells the writer that conduct such as that of CD has caused difficulty before to the Coal Board and in a previous case they laid the charge under reg. 27 which forbids anyone in a mine to "fight or behave in a violent manner." On that occasion the Bench ruled that

mere words could not amount to acting in a violent manner and it may be thought that it is necessary to strain a little reg. 28 in order to bring provocative words within its ambit. It will be recalled that the relevant passage in the regulation reads: "No person employed in or about the mine shall negligently or wilfully do anything likely to endanger life or limb in the mine." R.L.H.

PENALTIES

Wallington—October, 1952—stealing two ferrets—twenty-eight days' imprisonment. Defendant, a thirty year old labourer, stole the ferrets from an eighty-eight year old man. Defendant, who had previous convictions, said he stole the ferrets on the spur of the moment in order to get a meal for his three children.

Taunton—November, 1952—driving without due care and attention. Fined £3 to pay £7 2s. 4d. costs. Disqualified from driving for one month. Defendant, a seventeen year old apprentice mechanic, knocked down a cyclist and two women pedestrians four days after taking out a provisional driving licence.

Bristol—Stealing £69 from her employers—fined £20. Defendant, branch manageress for a firm of Wine and Spirit Merchants, was found to have emptied sixty-six bottles of wine and to have filled seven others with water.

Sedgley—Delivering a quantity of butcher's meat without a legible statement of weight. Fined £2 to pay £2 2s. costs.

Oldbury—Assault, causing actual bodily harm. Fined £2 to pay £2 12s. costs. Defendant, an ex-boxer, returned to the bar of a public house to find his pint of beer missing. He lost his temper after asking several people if they had seen it and struck another customer in the face knocking him to the ground.

Oldbury—Failing to pay National Insurance contribution while self employed. Fined 40s. It was stated that defendant, the owner of a small garage, had paid arrears amounting to £17.

MILK AND DAIRIES

(Concluded from p. 735, ante)

(C) SPECIAL DESIGNATIONS

"Special designations" of milk are dealt with in Part II of the 1950 Act, in this respect re-enacting the provisions of the Act of 1949. It is now compulsory, in London and neighbourhood, and in Portsmouth and neighbourhood, for only milk to which one or other of the prescribed special designations applies to be sold by retail: Milk (Special Designations) (Specified Areas) Order, 1951 (S.I. 1951, No. 1358), made under s. 23 of the 1950 Act, and thereby applying s. 19 *ibid.* In other parts of the country, the use of these special designations is optional, but if a designation is used with reference to particular milk, then the provisions of the respective regulations must be complied with.

The Pasteurized and Sterilized Milk Regulations relate to the designations which are used for heat-treated milk, and provide for two designations, "Pasteurized" and "Sterilized," and neither of these designations may be used by any person "for the purpose of the sale or advertisement of any milk," unless he holds a licence authorizing the use of that designation in connexion with that milk (Act of 1950, s. 13 (2)). Licences authorizing the use of a special designation in relation to milk pasteurized or sterilized on the premises of the applicant are issued by "food and drugs authorities" (see s. 64 of the 1938 Act), and all other licences (including supplementary licences extending an existing licence to the area of another authority) are issued by the local authority, as defined by the same section. General and special conditions are laid down in the regulations, to which licences are subject, and also the authority may refuse to grant a licence if they are not satisfied that the applicant's arrangements and processes for the handling, treatment, storage and distribution of milk, as the case may be, are such as to comply with the relevant provisions of the Milk and Dairies Regulations, or of the Special Designations Regulations (see art. 7). An appeal lies at the suit of any person aggrieved by a refusal of registration (or the revocation of an existing licence), to a tribunal constituted under the Fourth Schedule to the Regulations.

The Raw Milk Regulations relate only to "cows' milk which has not been treated by heat," not being cream, separated, skimmed, dried, condensed or evaporated milk, or buttermilk. The two designations that are recognized with reference to such milk are "Tuberculin Tested" and "Accredited," but the latter may not be used in a "specified area" after October 1, 1954 (see 1950 Act, s. 22), and no new application to use that designation may be made after September 30, 1952. A licence for a producer (*i.e.*, a licence granted to a person owning or having control of a herd of cows to use a special designation in relation to milk produced from that herd and sold by him at or from the premises where the herd is maintained) is issued by the Minister of Agriculture and Fisheries, and will, it is understood, normally be issued for a period of five years. A dealer's licence (*i.e.*, a licence, including a supplementary licence, granted to a person authorizing the use of a special designation in relation to milk sold by him and produced from a herd of cows not in his ownership or control, or to any person owning or controlling a herd to use a special designation in relation to milk sold by him at or from premises other than those at which the herd is maintained) is issued by the local authority, as defined by s. 64 of the 1938 Act. Licences may be refused or revoked on grounds similar to those applicable to licences under the Pasteurized and Sterilized Milk Regulations, and any person aggrieved has a similar right of appeal to a special tribunal.

Special safeguards are provided in the licensing system in areas where the use of special designations has been made compulsory. In particular, a licence may not be revoked or suspended in any such case unless the person concerned has been convicted of an offence to which s. 25 of the Act of 1950 applies—*i.e.*, subject to s. 26, *ibid.*, those listed in sch. 4 to that Act (see Part II of sch. 3, *ibid.*). In the special areas it is an offence to sell milk without the use of a special designation, subject to special provisions relating to "catering sales" (see ss. 19 and 20 of the 1950 Act); it is the duty of the "food and drugs authority" to enforce this provision. On the other hand, the

duty of enforcing the provisions of s. 25 of the 1950 Act, is a matter for the appropriate licensing authority (see *Pasteurized and Sterilized Milk Regulations*, reg. 15, and *Raw Milk Regulations*, reg. 23).

In an article of this nature, it is not possible to discuss all the many points that may arise in the detailed application of these various regulations, but care should be taken in reading them to pay particular attention to the special—and sometimes quite unexpected—definitions in s. 28 of the Act of 1950. Incidentally, the power in former Special Designation Regulations given to licensing authorities to charge fees for licences has not been repeated.

(D) SPECIAL STATUTORY PROVISIONS RELATING TO MILK

Mention should here be made, for the sake of completeness, of s. 8 and the Second Schedule of the 1950 Act (prohibition of sale of tuberculous milk, and milk of cows suffering from tuberculosis), re-enacting s. 25 of the 1938 Act, and s. 9, *ibid.* ("certain additions not to be made to milk, and certain liquids not to be sold as milk"), re-enacting s. 24 and s. 65 (1) (b) of the 1938 Act. Section 10 of the same Act reproduces the effect of s. 23 of the 1938 Act, enabling the Ministers of Housing and Local Government, Food and Agriculture and Fisheries, acting jointly, to make regulations as to presumptive evidence of adulteration of milk; the Sale of Milk Regulations, 1939, made under the 1938 Act, are retained in force by virtue of s. 36 (2) of the 1950 Act. Section 11 (establishment of milk depots) corresponds to s. 26 of the 1938 Act, and s. 12 repeats part of s. 19 (1) of the Agriculture Act, 1937, in providing for the milk and dairies functions of veterinary inspectors appointed by the Minister of Agriculture and Fisheries. New provisions of the 1950 Act provide for the establishment of committees to review the working of Milk and Dairies Regulations (1950 Act, s. 5) and of Special Designation Regulations (*ibid.*, s. 16).

Part III of the 1950 Act deals with artificial cream, but it does not call for any special comment, as its provisions merely repeat ss. 27, 28, 29 and part of 65 (1) of the 1938 Act, dealing with this subject.

(E) MILK SAMPLING

When considering this topic, reference must still be made to the 1938 Act, as the 1950 Act has not affected the subject. In this article it is proposed to deal only with those aspects of the law relating to food sampling which are peculiar to milk, or where the application of the general provisions to milk may cause special difficulty.

In the first place, in connexion with proceedings brought under s. 3 of the 1938 Act (food not of the nature, substance or quality demanded), it is important to remember that if the milk sampled can be shown to contain less than three *per cent.* of milk fat or less than 8.5 *per cent.* of milk solids other than milk fat, a rebuttable presumption is raised, in respect of which the onus is on the defence to remove, to the effect that the milk is not genuine: *Sale of Milk Regulations*, 1939. In order to answer a defence that the milk was sold in the condition in which it came from the cow (for it should be noted that the Sale of Milk Regulations, 1939, do not provide, as is sometimes imagined, that the requirement mentioned shall be a standard to which all milk must comply before it may be sold for human consumption), the prosecution may take a further sample—the procedure applicable to an "appeal to the cow" is laid down in the Third Schedule to the Act. In the Ministry's Circular Memo 36/Foods, last issued in 1939, it is emphasized that an adequate number of witnesses should be present at the taking of such a sample. "Channel Islands" milk has a special definition for the purposes of the price control applying to milk, imposed by orders made

under the Defence Regulations; but that does not mean that a purchaser who has asked for "Guernsey" milk, and who is given milk which does not fall within the "Channel Islands" definition (being inadequate in butter-fat content), is "prejudiced" within the meaning of s. 3 of the 1938 Act: see *Highnam v. Turrier* [1951] 2 All E.R. 850; 115 J.P. 606.

Section 68 of the 1938 Act is the general section dealing with sampling, and this provides, *inter alia*, that a sampling officer may take samples of milk (and "milk" has an extended meaning, by virtue of s. 100 (2) (a)) at any dairy, or at any time while it is in transit, or at the place of delivery to the purchaser, consignee or consumer. The usual contract between a farmer and the Milk Marketing Board provides for the farmer to deliver to a named consignee, and, therefore, the "place of delivery" is the consignee's premises, and not the farm collecting point (in many cases, the roadside stand from which the milk churns are collected): *Natras v. Lawes* (1948), 92 Sol. Jo. 556. On the other hand, milk awaiting collection at the roadside has been held not to be "in transit," in *Morgan v. Davies* (1942), 86 Sol. Jo. 36, and consequently it seems that under neither heading can a sample be justified if taken from a churn when awaiting collection at the roadside—once the milk has been collected by the contractor, it is then "in transit," and a sample may be taken: *Jones v. Edwards* (1948), 92 Sol. Jo. 298. "Transit" in this section includes all stages of transit: 1938 Act, s. 100 (1). Special provisions applicable only to milk are contained in s. 68 (5) and (6), dealing with sampling across district boundaries.

Since the passing of responsibility for the inspection of dairy farms to the Ministry of Agriculture and Fisheries, the question arises whether a local authority's sampling officer is entitled to take samples of milk at a dairy farm, within the meaning of the regulations above discussed. Section 68 (4) entitles the officer to take a sample at any "dairy," which is defined by s. 100 (1) to include most, if not all, dairy farms as defined by art. 2 (1) of the Milk and Dairies Regulations. On the other hand, it seems to be the considered policy of Ministry officers to dissuade local authority inspectors from calling at dairy farms, and it seems that a local authority inspector could not claim any power of entry (under s. 77 of the 1938 Act) on such premises, unless, possibly, he can argue that:

(a) He is entering for the purpose of performing one of the council's "functions" (an expression which includes powers and duties: s. 100 (1)), namely, that of taking samples; or

(b) He is entering for the purpose of enforcing the provisions of Part VII of the Milk and Dairies Regulations, which it is the duty of his authority to enforce, or, possibly to enforce some relevant provision of the Special Designation Regulations (especially in a specified area).

Argument (a) is, it is submitted, weak, as the purpose of taking such samples could normally be only so as to enforce the provisions of the Milk and Dairies Regulations, which, with regard to those premises it is not, *ex hypothesi*, the concern of the officer's council; argument (b) can be used only in special cases, and could not, it is submitted, be used to cover routine sampling.

Section 71 of the Act incorporates the Third Schedule, relating to the procedure to be adopted for the taking of milk samples, and it is also provided that a defendant shall be entitled to be acquitted if he can prove that the churn or other vessel in which the milk was contained was effectively closed and sealed at the time when it left his possession, but had been opened before the sample had been taken. It is also material to note that s. 13 of the Act, dealing with "food rooms" does not apply to dairies, unless some food other than milk (understood in the wider sense of s. 100 (2)) is prepared for sale or sold, etc., in the room.

J.F.G.

TAKING COVER

Insurance has been defined as "the practical device by which civilized man protects himself against the contingencies of life." Relying upon what is called "the law of average," he provides, by widespread contributions on a small scale, against the hazards to which his enterprise and industry are liable. A Select Committee of the House of Commons, reporting in 1825 on the Friendly Societies, expressed itself with admirable lucidity:

"Whenever there is a contingency, the cheapest way of providing against it is by uniting with others, so that each man may subject himself to a small deprivation in order that no man may be subjected to a great loss. He upon whom the contingency does not fall does not get his money back again, nor does he get for it any visible or tangible benefit, but he obtains security against ruin, and consequent peace of mind. He upon whom the contingency does fall gets all that those, whom fortune has exempted from it, have lost in hard money, and is thus enabled to sustain an event which would otherwise overwhelm him."

The practice of insurance goes back, of course, many centuries before that date. Several authorities have expressed the view that some form of insurance was in vogue among those communities of the Ancient World whose commerce had a maritime basis. There is no direct evidence that any policy of marine insurance was taken out by Jason on the good ship *Argo*, or on the valuable Golden Fleece it was to carry back from Colchis, in the south of Russia, to Greece; nor is there any mention in Homer of a payment by underwriters to Odysseus in respect of the ships lost from his fleet on his return voyage from the Trojan War. But there are indications that some system of mutual protection was in force among the Phoenician and Egyptian merchants and other seafaring peoples of early times.

In the Middle Ages there is ample evidence of insurance practice, in Barcelona in the thirteenth and in Bruges in the fourteenth century. A Chamber of Insurance was established in London under a patent granted by Elizabeth I in 1574; the earliest known life policy was granted in 1583, and the first English Statute, dealing with marine risks, was passed in 1601. Until comparatively recent times insurance was confined to marine, fire and life risks. Today it is possible, subject to the overriding limitations of public policy, to cover oneself against almost any contingency. Policies to guard against the risks of personal sickness and accident, burglary, housebreaking and larceny, motoring, aviation and travelling mishaps, storm, flood and even earthquakes have become a commonplace; the State intervened in 1939 with its own schemes of cover for War Damage, and more recently with the comprehensive system set up by the National Insurance Acts.

Thus modern man, though he may still be doomed "to suffer the slings and arrows of outrageous fortune," is enabled so to arrange his affairs as to expose his least vulnerable side to such attacks. There are practically no bounds to the ingenuity and enterprise of the underwriters in devising ever-fresh schemes, and the universality of the practice indicates that it fulfils a very real human need.

What is perhaps a novel departure in this line has been recently reported from Norfolk, where a farmer has taken out a policy to cover himself, not against acts of Providence (as natural calamities are somewhat strangely called), but against potential liability for damage which may be caused to third parties by the activities of his two sons. The annual premium, 10s., is reasonable enough; what is surprising is to learn that the cover amounts to £10,000, and that the young gentlemen, whose mischievous activities he has thought fit to guard himself against, are aged respectively six and four years of age. "Our boys," he tolerantly remarked in an interview, "are just high-spirited; but you never know when a ball is going through a

neighbour's window." Considered in relation to the amount of cover, the contingency quoted seems to be a masterpiece of understatement.

Although this is reported to be the first policy of its kind, the idea is one which all far-sighted parents ought to adopt, and it is, of course, capable of considerable extension. We have no doubt that the fun and games in which these two little darlings indulge are innocuous enough; and this paternal forethought for his neighbour's comfort is to be strongly commended. Unfortunately there are parents of other types, among whom indifference to the mischievous propensities of their offspring amounts almost to criminal negligence. Third-party cover in relation to the perilous eccentricities of motor-vehicles has long since been made obligatory by statute, and the analogy is not too fanciful to justify the suggestion that, in present conditions, insurance against the escapades of small boys should be made compulsory upon all who stand *in loco parentis* to those equally dangerous creatures.

It will be readily admitted that most children—especially boys—evinced at certain times all the characteristics of animals *ferae naturae*; if, then, they escape from the control of those who should keep them in, and commit damage, there seems to be no adequate reason why the appropriate rules of the law of negligence should not apply. It is all too clear that many of them, at fourteen or so, are regarded by their contemporaries as having attained the qualifying age at which suitable proficiency can be expected of them in the use of the "cosh" and razor-blade, the arts of breaking and entering, and the terrifying of feeble old ladies with toy-pistols and other, more lethal, weapons. Before they reach that age of discretion their activities are usually confined to such playful pastimes as torturing helpless animals, blackmailing smaller and weaker members of their species, pilfering pocket-money, and damaging or destroying such articles of a delicate and frangible nature as the owners are ill-advised enough to leave in their way.

In the present state of public morality juvenile offences involving petty cruelty and brutality appear to be regarded as comparatively venial. This is a state of affairs which is likely to continue so long as successive Governments, actuated by the fear of offending powerful vested interests, across the Atlantic and at home, tolerate the importation and dissemination of illustrated periodicals and films glorifying episodes of brutal violence. Other civilized countries have come to the wiser conclusion that prevention is better than cure, and that the exposure of immature minds to this kind of infection is bound to lead to an epidemic which will yield only to the most drastic remedies. Meanwhile our own authorities, somewhat inconsistently, do little more than raise their hands in pious horror at the inevitable result, when the cruelty and brutality they have failed to discourage in its initial stages grows, like the perpetrators, from pettiness to full stature.

However, this is how the matter stands, and where the criminal law has failed so signally in its function of protecting the young from themselves, and the elderly from the young, recourse must be had to civil remedies. Hence we welcome the Norfolk example, and look forward to the day when the practice of boy-risk insurance will have become general, that those who suffer, physically or materially, from these pestilential attacks may at least be compensated out of the contributions of those few fortunate citizens who remain, for the time being, untouched by the plague.

A.L.P.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Building Materials and Housing Act, 1945, s. 7.—Defence Regulation 56A.—Contravention.

A man applied for a licence to erect a dwelling-house but the local council were unable at the time to allocate a licence to him. He thereupon commenced building his house, relying on the £100 a year free limit. He again applied for a licence but the council were still unable to issue one, whereupon he continued building and completed the house, spending the sum of £400 to £500 over the free limit to which he was entitled. A summons was issued against him for contravention of Defence Regulation 56A and at the hearing he was fined £300 and costs. He seems to be at an advantage even now as he has a house which is not subject to any restriction as to selling price or rent under s. 7 of the Building Materials and Housing Act, 1945. Do you agree that no restrictions can be imposed on the selling price of a house erected in the circumstances outlined above?

F. HEWBR.

Answer.

Section 7 of the Building Materials and Housing Act, 1945, applies only where there has been a licence. It can have no application to the house in question. We know of no legal provision which restricts the selling price of a house erected in the circumstances you describe.

2.—Evidence—Of bad character and previous conviction of accused—Admissibility in various circumstances (both in cases tried summarily and on indictment) according to evidence called by, or the cross-examination of witnesses by, the accused.

The Summary Jurisdiction Act, 1848, s. 14, provides that after the witnesses for the defence have been called in a magistrates' court, the justices shall hear such witnesses as the prosecutor may examine in reply, if such defendant shall have examined any witnesses or given any evidence other than as to his, the defendant's, general character.

The Criminal Procedure Act, 1865, s. 6, provides that a witness may not be questioned as to his previous convictions and if he denies or does not admit them, such convictions may be proved. (Note that this section apparently relates only to proof of convictions of the person giving evidence and does not relate to convictions of other people, which he may have denied.)

The Criminal Evidence Act, 1898, s. 2, provides that an accused person may not be cross-examined as to previous convictions unless he has asked questions of the Crown witnesses with a view to establish his own good character or has given evidence of his good character.

In *Phipson's Manual of Evidence*, 7th edn., p. 71, it is stated as follows: "Whenever the accused gives evidence of good character either by cross-examination or by his own or other's testimony, the prosecution may rebut it. Thus, the prisoner's witness as to character may (though this is not usual unless on specific material) be cross-examined by the prosecution; and evidence may also be given in rebuttal both of the prisoner's general bad character (though this is rarely tendered) and in certain cases of his previous convictions."

On p. 72 of *Phipson* it is stated that whenever the accused may be cross-examined as to his bad character, he may be asked as to his previous convictions. If he denies the fact, they may be proved by evidence in rebuttal. But where the accused does not give evidence and so cannot be cross-examined, although he would have been if he had, then previous convictions cannot be proved. *Phipson* cites *R. v. Butterwasser* [1947] 2 All E.R. 415; 111 J.P. 527, as authority for the last sentence, but examination of that case shows that it was concerned only with the position where Crown witnesses were attacked and not where the accused's character had been put in issue.

R. v. Rowton (1865) 29 J.P. 149 is an authority for saying that evidence of the prisoner's general bad character may be given in rebuttal.

1. Where an accused being tried on indictment does not give evidence himself, but calls witnesses as to character, may the prosecution call witnesses in rebuttal? If so, must such witnesses confine themselves to evidence of general bad character or may they prove, in addition or in lieu, previous convictions?

2. Where an accused being tried in a magistrates' court does not give evidence but calls witnesses as to character only, may the prosecution call evidence of his general bad character or evidence of his previous convictions in rebuttal in view of s. 14 of the 1848 Act?

3. Where an accused being tried in a magistrates' court does not give evidence but calls witnesses as to facts and as to character, may the prosecution call evidence of his general bad character or of his previous convictions in rebuttal?

4. Where an accused being tried before a magistrates' court gives evidence himself and sets up his good character and denies previous convictions, may evidence be called by the prosecution of his general bad character or of his previous convictions in rebuttal? Obviously, he cannot have confined his own evidence to character alone.

It is assumed that all the witnesses called as to good character have denied knowledge of the accused's previous convictions.

5. Where an accused, whether being tried on indictment or summarily, has questioned Crown witnesses as to his character and they, either not knowing of his previous convictions or deliberately lying, say they believe him to be a man of good character, may the Crown call evidence of his bad character or of his previous convictions before the close of its case? Notice of additional evidence would, it is assumed, have to be given in trials on indictment.

Please distinguish in your answers between evidence of bad character and evidence of previous convictions.

JANG.

Answer.

1. Yes, both kinds of evidence may be given.

2. No, because of the express provision in s. 14.

3. Yes, both as in 1.

4. Yes, both as in 1.

5. Yes, both as in 1. We do not think notice of additional evidence is necessary in these circumstances.

Reference may be made to *R. v. Rowton* (1865) 29 J.P. 149 (approved in *R. v. Butterwasser*, *supra*, as to the form in which evidence of character should be given).

3.—Husband and Wife—Custody of child given by order to wife, with order as to access by husband—Wife refuses access—Remedy.

My justices recently made a maintenance order in favour of a wife and child aged twenty months, the wife being given custody of the child but with a provision that the husband should have reasonable access to the child. The husband has now complained to me that his wife has refused to allow him to see the child, and I have informally seen the wife who admits that this is so. She has given me her reasons, which may or may not be sound but which appear not to be relevant for the purposes of this inquiry. It seems likely that the husband will wish to apply to the justices for enforcement of his right of access, and I should be grateful if you could advise me what form his application should take, and in what manner the provision for access can be enforced (assuming, of course, that he makes out his case). The Married Women (Maintenance) Act, 1949, which confers the power to make provision for access, appears to give no guidance on the point. If no other means of enforcement is available, I have it in mind to suggest to the justices that they should warn the wife that if she refuses to allow access the order is likely to be varied; that they should then adjourn the case for a few weeks to see what occurs; and that if it appears at the adjourned hearing that the wife is persisting in her refusal, they should reduce the sums ordered to be paid by the husband or even discharge the order altogether so far as it relates to payment. Do you agree?

SANK.

Answer.

If the order requires the wife to allow reasonable access and the husband is refused any access, it is a case of disobedience of an order of a magistrates' court in respect of which no special means of enforcement is provided, and s. 34 (2) of the Summary Jurisdiction Act, 1879, applies. A summons under that subsection can be issued upon the husband's application. We do not think it would be proper to seek to induce obedience by such a device as that of reducing or cancelling the maintenance provision in the order, which has nothing to do with the matter in dispute between the parties.

We suggest that a general direction to give reasonable access is not suitable where the parents are so much at variance, and it would be well to vary the order by stating as precisely as possible the times and places at which the husband should be allowed to have access to the child.

4.—Husband and Wife—Neglect to maintain child.

In an application for a maintenance order it would seem that a refusal by a wife to cohabit with her husband is no defence to a charge that the husband has failed to provide reasonable maintenance for a child and that the magistrates may make an order in respect of the child only.

Do you agree? If not,

(a) Please quote authority.

(b) May the magistrates in such a case make an order under the Guardianship Acts without a complaint having been specifically and separately laid and served under those Acts?

(c) If not, can a complaint under those Acts be combined with a Married Women Acts complaint? SETA.

Answer.

In order to obtain any order under the Summary Jurisdiction (Separation and Maintenance) Acts, 1895 to 1949, whether in respect of herself or of the children, the married woman must prove one of the grounds of complaint mentioned in those Acts. Admittedly, one such ground is wilful neglect to provide reasonable maintenance for her children whom he is liable to maintain. We do not think a wife can succeed under these Acts if she, without just cause, refuses to live with her husband, takes the children with her against his will and then demands that he shall pay her maintenance for them. His defence may be that he has not neglected to provide reasonable maintenance, because he has always been desirous of maintaining them in the matrimonial home, and that what she demands is unreasonable.

In proceedings under the Guardianship of Infants Acts, the court does not have to find any matrimonial offence proved, and is concerned with the conduct of the parties only in so far as it affects the welfare of the children. Where each party desires their custody, the court will decide the matter on that basis, and if custody is given to the mother the father is normally ordered to pay her for their maintenance.

To the specific questions, our answers are therefore:

(a) We do not agree, our authority being the wording of s. 4 of the Summary Jurisdiction (Married Women) Act, 1895, with special reference to the word "reasonable."

(b) We think not, and at all events it is better to be on the safe side by entertaining a fresh complaint.

(c) Although it seems that more than one ground of complaint may be included in a single summons (*cf. Tyrrell v. Tyrrell* (1928) 138 L.T. 624), we think it would be wise to have separate complaints under the two different sets of statutes.

See also a question and answer at 111 J.P.N. 455.

5.—Public Health Act, 1936, s. 234—Life saving appliances—Seashore.

1. Can a rural district council, which has a coast line in its district, provide and maintain a boat for the rescue of people who are caught by the tide when trying to climb the cliffs?

2. Has a rural district council any authority to fix and maintain warning notices against the practice of climbing the cliffs?

3. Has a parish council any powers in either of these cases?

4. Does it make any difference to the answers to the previous questions if a parish council or rural district council own or lease part of the foreshore? PICT.

Answer.

1. Yes. We think it would be a life saving appliance within s. 234 of the Public Health Act, 1936.

2. We think so. The notices are not clearly life saving appliances but objection would be unlikely and the notices might even be held to be appliances within the section.

3. No. A parish council is not a local authority within s. 234 of the Act of 1936.

4. No, except that, where either council has a proprietary interest, the cost of notice boards fixed to the soil is surely most unlikely to be challenged in that authority's accounts.

6.—Road Traffic Acts—Removal of disqualification—1930 Act, s. 7 (3)—Meaning of "any other circumstances of the case."

Section 7 (3) of the Road Traffic Act, 1930, provides that on an application for the removal of a disqualification for holding or obtaining a licence, made at any time after the expiration of six months from the date of a conviction or order, the court may, as it thinks proper, having regard to the character of the person disqualified and his conduct subsequent to the conviction or order, the nature of the offence, and any other circumstances of the case . . . remove the disqualification . . .

Can you please advise as to the exact meaning of the words "and any other circumstances of the case?"

Do they refer to relevant circumstances in existence at the time of the offence, or can they be taken also to include circumstances in existence at the time of the application for the removal of the disqualification, such as circumstances peculiar to the applicant at that time and not to the offence, e.g., (i) that he requires to drive a motor vehicle in connexion with his work or business, or (ii) that, in the opinion of the court which hears the application, the applicant in paying the penalty imposed upon him at the time of his conviction and having undergone part of the period of his disqualification, has expiated his offence?

Similar words are used in s. 7 (4) which relates to driving while disqualified—"having regard to the special circumstances of the

case"—and also in s. 11 which relates to dangerous or reckless driving—"having regard to all the circumstances of the case"—and see note (1) *Stone*, 83rd edn., 1951, vol. 2, p. 2062. J. "Tyr."

Answer.

The words in question must, wherever they occur, be read in their context. In s. 7 (3) we think they are intended to have a wide meaning and to entitle a court to consider matters which they could not take into account in deciding, at the original hearing, whether special reasons existed. They should consider the "case" as a whole, and this must include matters in evidence at the original hearing, as well as what has happened since. Courts should not, however, deal with such applications under s. 7 (3) in any way that leads to their succeeding more or less as a matter of course. There must, in each case, be some substantial reason for altering the original order.

7.—Town and Country Planning Act, 1947, s. 33—No directions given—Whether notice invalidated.

My council have instructed me to serve a notice under the above section on the owner of a vacant site in the county which they consider is in such a condition that the amenity of the adjoining area is seriously injured thereby. I have now served such a notice, and the owner's solicitors have drawn my attention to the words of s. 33 (1) " . . . subject to any directions given by the Minister . . . " They interpret these words as meaning that the Minister's consent or directions must be obtained by a local planning authority in every case before a notice under the section is served, and they are alleging that my notice is bad because the Minister's consent was not obtained before the notice was served. I cannot agree with that contention, and consider that the words quoted above merely refer to general directions which may be given by the Minister as to the method of serving notices, and any ministerial circulars, etc. I should be obliged if you would let me have your opinion as to whether the solicitors' interpretation of the above quoted words in the section is the correct one, and whether my council should have obtained a specific consent from the Minister prior to serving the notice. PUPU.

Answer.

The owner's argument is untenable. The power is in the section in reserve. If (and when) such directions are given the local authority will have to comply with them, but the consent of the Minister will still be unnecessary unless the directions require such consent in any particular case or class of case.

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The successful applicant will probably be required to work in the north of the county and the provision of a motor-car, for which an allowance in accordance with the County Council Scale will be paid, will be desirable.

Applications, stating age, qualifications and experience, together with the names and addresses of two referees, to be received by the undersigned by December 11, 1952.

W. R. SCURFIELD,

Clerk of the Peace.

Shirehall,

Worcester (D.27).

DERBYSHIRE COUNTY COUNCIL

APPLICATIONS are invited for the appointment of a Committee and Legal Clerk. Good experience in Local Government Committee work essential, and experience of Planning Committee work an advantage. Salary—Grade A.P.T. VII. Pensionable post. Appointment subject to medical examination. Application forms from D. G. Gilman, Clerk of the County Council, County Offices, Derby, returnable by November 29, 1952. Endorse "Committee Clerk."

DEVON MAGISTRATES' COURTS COMMITTEE

Appointment of Deputy Justices' Clerk

APPLICATIONS are invited from barristers or solicitors for the whole-time appointment of a deputy clerk to the justices to act in two combined areas comprised of Petty Sessional Divisions in Devon for which whole-time clerks will be appointed. The person appointed may also be required to act in any other petty sessional court in the county during the absence of the clerk from illness or other cause.

The appointment will commence on or about April 1, 1953, and the salary will be at the rate of £850 × £50 to £1,000 plus travelling and subsistence allowances.

The appointment will be permanent and superannuable.

Applications, giving full particulars of qualifications and experience, and names of two referees, should be forwarded to me not later the December 15, 1952.

Further particulars as to this appointment may be obtained from the undersigned.

H. G. GODSALL,

Clerk of the Committee.

The Castle,
Exeter.

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COUNTY OF DEVON

DEVON MAGISTRATES' COURTS COMMITTEE

Appointment of Justices' Clerk Justices of the Peace Act, 1949

APPLICATIONS are invited from Barristers or Solicitors qualified in accordance with the above Act for a whole-time appointment of Clerk to the Justices for a combined area consisting of the Borough of Torquay and the Petty Sessional Divisions of Dartmouth, Kingsbridge, Tavistock and Totnes, with a central office at Torquay and periodical attendance at the other towns previously mentioned.

The Committee may decide at any time to alter the area which the Clerk will be required to cover.

The Clerk will be required to take up his duties on or about April 1, 1953. The combined area has a population of approximately 100,000. The commencing salary will be £1,500 and may be adjusted upwards in accordance with the scale to be settled arising out of negotiations now in progress concerning Justices' Clerks' salaries. Travelling and other expenses will be paid. The appointment will be permanent and superannuable. Applications, giving full particulars of qualifications and experience, and names of two referees, should be forwarded to me not later than December 9, 1952.

H. G. GODSALL,

Clerk of the Committee.

The Castle,
Exeter.

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SURREY PROBATION AREA

Appointment of Two Full-time Male Probation Officers
Appointment of Full-time Female Probation Officer

APPLICATIONS are invited for the above appointments in the Surrey Probation Area.

The appointments will be subject to the Probation Rules, and the salaries will be in accordance with those Rules, subject to superannuation deductions.

Written applications, with the names and addresses of not more than three persons to whom reference may be made, should be submitted not later than December 5, 1952. Forms of application may be obtained from the undersigned.

E. GRAHAM,
 Secretary of the Surrey
 Probation Area Committee.

County Hall,
 Kingston-upon-Thames.

CITY OF LEEDS

Appointment of Clerk of the Peace

APPLICATIONS are invited for the part-time appointment of Clerk of the Peace for the City of Leeds.

The salary will be £150 per annum and the person appointed will be entitled to retain the fees payable to the Clerk of the Peace in accordance with the Table of Fees for the time being in force.

Particulars of the appointment can be obtained from me, and applications, giving details of age, experience and qualifications, and accompanied by copies of two recent testimonials, should be received by me not later than December 9, 1952.

ROBERT CRUTE,
 Town Clerk.

Civic Hall,
 Leeds, 1.

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COUNTY BOROUGH OF SOUTHEND-ON-SEA

Appointment of Male Probation Officer

APPLICATIONS are invited for the above appointment which will be subject to the Probation Rules, 1949/1952.

Preference will be given to applicants between the ages of twenty-three and thirty years.

Applications, with the names of two referees, should be sent to the undersigned before December 6, 1952.

H. HOMFRAY COOPER,
 Secretary to the Probation Committee.

1, Nelson Street,
 Southend-on-Sea.

Amended Advertisement

COUNTY BOROUGH OF DUDLEY

Assistant Solicitor

APPLICATIONS for the above appointment are invited. Commencing salary within A.P.T. VII (£710—£785 per annum) according to experience and qualifications.

Local Government experience not essential. Housing accommodation available if required. Further particulars and forms of application on request.

P. D. WADSWORTH,
 Town Clerk.

The Council House,
 Dudley.
 November 12, 1952.

WESTMORLAND COUNTY COUNCIL

APPLICATIONS are invited for the post of Assistant Solicitor. The salary will be on Grades VA-VII, the point of entry to be fixed according to ability and experience.

The duties will include work in connexion with quarter sessions, the Lake District (National Park) Planning Board and the Magistrates' Courts Committee.

Further particulars and forms of application are available at this office.

Applications must reach me by December 1, 1952.

K. S. HIMSWORTH,
 Clerk of the Peace and
 of the County Council.

County Hall,
 Kendal.

METROPOLITAN BOROUGH OF SOUTHWARK

THE Council has vacancy for Assistant Solicitor on the permanent establishment of the Town Clerk's Department. Salary in accordance with Grade A.P.T. VII, i.e., £740 rising to £815 p.a. (£10 less if under twenty-six years of age).

Local government experience is desirable but not essential.

The appointment is subject to the Council's Conditions of Service, Superannuation Scheme, and medical examination.

Housing accommodation cannot be provided.

Applications, on forms obtainable from me, must be returned by noon on December 3, 1952.

D. T. GRIFFITHS,
 Town Clerk.

Southwark Town Hall,
 Walworth Road, S.E.17.

MONMOUTHSHIRE COMBINED PROBATION AREA

Appointment of Full-time Male Probation Officer

APPLICATIONS are invited for the appointment of a Full-time Male Probation Officer. Applicants, other than serving Probation Officers, must not be less than twenty-three or more than forty years of age.

The appointment will be subject to the Probation Rules and the salary paid will be according to the scale prescribed in the Rules.

The successful applicant will be required to pass a medical examination. Applications, stating age, present position, qualifications and experience, together with the names of at least two referees, should reach the undersigned not later than December 5, 1952.

VERNON LAWRENCE,
 Secretary of the Committee.

County Hall,
 Newport, Mon.

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